

Panaji, 9th January, 1975 (Pausa 19, 1896)

SERIES II No. 41

OFFICIAL GAZETTE



GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Special Department

Order

No. 4-19-74-SPL

In pursuance of the Government of India, Ministry of Home Affairs Notification No. U. 14020/19/74-UTS dated 19th December, 1974 and in exercise of the powers conferred on him by proviso to Government of India, Ministry of Home Affairs order No. 7/1/65-Ests(A) dated 10th February, 1965 below Rule 8 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 the Administrator of Goa, Daman and Diu is pleased to appoint Shri K. L. Bhatia, I.A.S. (U. T.) as Finance Secretary, Goa, Daman and Diu with effect from 1st January, 1975, vice Shri Puran Singh whose services are placed at the disposal of the Government of India, Ministry of Home Affairs, New Delhi.

On relinquishing the post of Finance Secretary, Shri Puran Singh should report to the Ministry of Home Affairs, New Delhi for his future posting.

By order and in the name of the Administrator of Goa, Daman and Diu.

J. C. Almeida
Chief Secretary

Panaji, 31st December, 1974.

Order

No. 4-19-74-SPL

Read: Govt. order of even number dated 9-12-74.

Sanction is accorded to the continuance of the temporary post of Officer on Special Duty in the General Central Service Class I Gazetted pay scale of Rs. 900-1800 (Pre-revised) for a period upto 31-12-74.

The expenditure is debitable to the Budget Head «252. Secretariat General Services A-Secretariat (Non-Plan) A.3 Finance Department A.3(1) Salaries A.3(2) Travelling Expenses A.3(3) Office Expenses.

By order and in the name of the Administrator of Goa, Daman and Diu.

M. K. Bhandare, Deputy Secretary (Appointments).

Panaji, 31st December, 1974.

Order

No. 4-19-74-SPL

Shri M. B. Kaushal, Inspector General of Police, Panaji is granted leave for 36 days w.e.f. 9-1-1975 to 13-2-1975. The

nature of leave will be intimated later. Shri Kaushal is permitted to avail of L. T. C. for the block year 1974-75.

Shri Anil Choudhary, Supdt. of Police, will officiate as Inspector General of Police, Goa in addition to his own duties during the period Shri Kaushal is away on leave.

Certified that Shri Kaushal would have continued to officiate as Inspector General of Police, Goa but for his proceeding on leave.

By order and in the name of the Administrator of Goa, Daman and Diu.

M. K. Bhandare, Deputy Secretary (Appointments).

Panaji, 2nd January, 1975.

Education and Public Works Department

Corrigendum

No. 12-52-73 FCS (EDN)

Read: Government Order No. 12-52-73 FCS (EDN), dated 11-11-1974 appointing Shri N. D. Goswami as Lecturer in Humanities in the College of Engineering, Goa.

In the Government Order dated 11-11-1974 cited above the words «with effect from 2-12-1974» may be read as «with effect from 12-12-1974» (F.N.) on which day Shri Goswami has joined duties.

By order and in the name of the Administrator of Goa, Daman and Diu.

N. Rajasekhar, Under Secretary (Planning).

Panaji, 26th December, 1974.

Rural Development Department

Corrigendum

No. RSR/ORG/PUB/SOCY/GAZETTE/74

The name of the 'Goa Urban Cooperative Bank Ltd., Panaji, appearing under heading (viii) — Resources — (a) — credit in the list of cooperative societies as on 30-6-1973, published in the Official Gazette, Series II, No. 26 dated 26-9-1974, on page 295 of the said Gazette, may be read under the heading (iii) Cooperative Bank.

Vaman Sardesai, Registrar of Coop. Societies, Goa, Daman and Diu.

Panaji, 28th December, 1974.

Industries and Power Department

Notification

No. 5-73-72-IPD/ARE/74

Whereas the mining lease granted to Smt. Amalia Rodrigues Gomes e Figueiredo under title of concession No. 65 dated 7-12-1951 for iron and manganese ores over an area of 58.2700 Ha. situated at Curpem of Sanguem Taluka was determined under Government Notification No. 5-73-72-IPD/ARF dated 27-11-1972 for breach of the provisions of clause (f) of sub-rule (1) of Rule 27 of the Mineral Concession Rules, 1960.

And whereas the said Smt. Amalia Rodrigues Gomes e Figueiredo filed a revision application to the Government of India against the said orders of the Government.

And whereas the Government of India, Ministry of Steel and Mines New Delhi, under their letter No. MV-1(134)73 dated 31st July, 1974 allowing the revision application of Smt. Gomes e Figueiredo have set aside the order of this Government dated 27th November, 1972.

Now, therefore, after careful reconsideration of the case in respect of the title of concession No. 65 dated 7-12-1951 the Lt. Governor of Goa, Daman and Diu, hereby condones the breach of the provisions of the Mineral Concession Rules, 1960 committed by Smt. Amalia Rodrigues e Gomes and hereby in exercise of the powers under section 21 of the General Clauses Act, 1897 cancels the Government Notification No. 5-73-72-IPD/ARF dated 27-11-1972 with immediate effect.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

P. Noronha, Under Secretary (Industries and Labour).

Panaji, 27th December, 1974.

Notification

No. 5-54-72-IPD.JSG/73

Whereas the mining lease granted to Shri Joao Santana Gomes under title of concession No. 46 dated 5-5-1952 for Ferro/Manganese over an area of 35.6300 Ha. situated at Melauli village of Satari Taluka was determined under Government Notification No. 5-54-72-IPD-JSG/73 dated 1-11-1973 for breach of the provisions of clause (f) of sub-rule (1) of rule 27 of the Mineral Concession Rules, 1960.

And whereas the said Shri Joao Santana Gomes filed a revision application to the Government of India against the said order of the Government.

And whereas the Government of India, Ministry of Steel and Mines, New Delhi, under their letter No. MV-1(116)/74 dated 5-10-1974 allowing the revision application of Shri Gomes have set aside the order of this Government dated 1-11-1973.

Now, therefore, after careful reconsideration of the case in respect of the title of concession No. 46 dated 5-5-1952 the Lt. Governor of Goa, Daman and Diu, hereby condones the breach of the provisions of the Mineral Concession Rules, 1960 committed by Shri Joao Santana Gomes and hereby in exercise of the powers under section 21 of the General Clauses Act, 1897 cancels the Government Notification No. 5-54-72-IPD.JSG/73 dated 1-11-1973 with immediate effect.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

P. Noronha, Under Secretary (Industries and Labour).

Panaji, 27th December, 1974.

Notification

No. 5-25-IPD/AVS/74

Whereas one Shri Ananta V. Sarmalcar from Vasco-da-Gama has been granted a mining lease under title of concession No. 27, dated 16-7-1955 for Ferro-Manganese over

an area of 80.7180 Ha situated at Colomba of Sanguem Taluka.

And whereas the said Shri Ananta V. Sarmalcar had failed to conduct the mining operations in the area leased to him under the aforesaid title of concession and thus has committed breach of the provision of clause (f) of sub-rule (1) of Rule 27 of the Mineral Concession Rules 1960.

And whereas a notice bearing No. DI/Mines./72/606 dated 7-3-1972 had been served on said Shri Ananta Sarmalkar calling upon him to remedy the said breach within 60 days from the date of receipt of the said notice.

And whereas, the said Shri Ananta V. Sarmalkar has failed to comply with the notice.

Now, therefore, in exercise of the powers conferred by sub-rule (5) of Rule 27 of the Mineral Concession Rules 1960 the Lt. Governor of Goa, Daman and Diu hereby determine the said mining lease granted to Shri Ananta V. Sarmalkar under title of concession No. 27 dated 16-7-1955 with immediate effect without prejudice to any proceeding that may be taken against him.

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

P. Noronha, Under Secretary, Industries and Labour.

Panaji, 28th December, 1974.

Labour and Information Department

Order

No. CLE/1/ID(5)/74/IT-7/74

The following Award given by the Industrial Tribunal Goa, Daman and Diu, on an Industrial Dispute between the Management of M/s. Agencia E. Sequeira, Borim and others, and the workmen employed under them, is hereby published as required vide provisions of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947).

P. Noronha, Under Secretary, Industries and Labour.

Panaji, 17th December, 1974.

Before Shri M. G. Chitale, Industrial Tribunal, Goa, Daman and Diu

References (IT-GDD) Nos. 10, 11, 12, 13, 14 and 15 of 1974

Adjudication

Between

Reference (IT-GDD) No.	First Party	And	Second Party
10 of 1974.	M/s. Agencia E. Sequeira, Borim, Ponda.		Their workmen.
11 of 1974.	M/s. Fabril Gasosa, Borim, Ponda.		Their workmen.
12 of 1974.	M/s. Fabril Gasosa, Borim, Ponda.		Their workmen.
13 of 1974.	M/s. Agencia E. Sequeira, Borim, Ponda.		Their workmen.
14 of 1974.	M/s. Fabril Gasosa, Borim, Ponda.		Their workmen.
15 of 1974.	M/s. Agencia E. Sequeira, Borim, Ponda.		Their workmen.

In the matter of:

Termination of services of Shri A. Fernandes.

Termination of services of Shri J. Furtado and Shri Joseph U. D'Souza.

Lock-out from 23-11-1973 to 11-12-1973.

Refusal of employment with effect from 11th December, 1974.

Appearances:

Shri Erasmo de Sequeira for the employers in all the references.

Shri Gerald Pereira with Shri George Vaz for workmen in all the references.

AWARD

These references relate to an unfortunate and prolonged dispute between the management of (i) Fabril Gasosa, Borim Establishment, Borim, Ponda (Goa), and (ii) M/s. Agencia E. Sequeira, Borim Establishment, Borim, Ponda (Goa), on the one hand and the workmen employed by these 2 concerns on the other. The dispute relates to lock-out admittedly declared on 23rd November, 1973, the dismissal of 3 employees on 23rd November 1973 and alleged refusal of employment with effect from 11th December 1973.

2. It would be necessary to set out the background on which this dispute arose. According to all Goa General Employees' Union (CITU), (hereinafter referred to as the union), the employees decided to form a union in 1967, but the management came down heavily upon this attempt to form a union. The very idea of formation of a union was—according to the union—opposed. Again in 1969 the employees joined Goa Trade and Commercial Workers' Union led by Mr. George Vaz. The management again created fear of victimisation in the minds of employees with the result that they had to abandon the union. According to the Union the economic condition of the employees deteriorated, they could not make both ends meet out of the wages they were getting, the employees had a number of important demands like revision of wage-scales, dearness allowance etc., hence the employees decided to join CITU Union. A general body meeting of the employees was called in May/June 1973. At that meeting members of the Factory Committee were elected. Constantino Furtado was elected as the Secretary, Joseph U. D'Souza was elected as the Treasurer, and Affonsinho Fernandes was elected as the President. The management was informed about the formation of the union by letter dated 18th October 1973, informing the management that the employees have joined CITU Union, and it sought an early appointment in order to discuss the employees' demands. Reminders dated 30th October 1973 and 9th November 1973 were sent to the management seeking an early appointment for discussing the demands. The management by its letter dated 10th November 1973 informed the CITU Union that it had asked R. C. Soares, Manager, to write to the union about the appointment sought on his return from leave towards the end of the month i.e. November 1973. The Union by its letter dated 22nd November 1973 again sought for an early appointment. In the meanwhile an unfortunate incident took place which has sparked off the unfortunate dispute in question. According to the management, on 22nd November 1973 in the evening Julio Dias, cashier, was gheraoed with a view to force him to become a member of the union. He and his family members were threatened with dire consequences. According to the management, the situation created by this gherao was serious, police were called to relieve Julio Dias. Julio Dias lodged complaint at Ponda Police station. The employees obstructed the cars of the officers late that evening when the officers were returning home. The employees, even before the arrival of these officers, had gone towards the quarters of the officers, abused and threatened the officers and their family members. The management alleges that employees who were unwilling to join union were threatened. Certain incidents, which according to the management disclosed coercive tactics, are alleged. The management further alleges that there were attempts at sabotage by adding water to the fuel in the trucks. It is further alleged that early in January 1974 tampering with the machinery was also discovered.

3. According to the Union, some employees had a talk with Julio Dias, but gherao and threats are denied. Other incidents are also denied. According to the Union, the management picked up the excuse of the talk the employees had with Julio Dias, and took a number of repressive steps to crush down the union. Admittedly on 23rd November 1973 the management declared lock-out on the grounds:

(i) Systematic campaign of coercion of fellow-workers and personal threats to them with a view to force them to join the union. This intimidation took place in the vicinity of the factory premises;

(ii) On account of the threats uttered the management had reason to believe that peace would be disturbed within the factory with the result that the assets of the employers would be under threat of damage;

(iii) Various attempts to sabotage work inside were noticed in the form of interference with the fuel in the vehicles.

(iv) The tension and the consequent atmosphere created by the above activities had inherent probability of causing irreparable damage to the factory.

On the same day i.e. 23rd November 1973 3 employees viz. Constantino Furtado, J. U. D'Souza and Affonsinho Fernandes, were dismissed on the ground of terrorising co-workers which, culminated into gherao of Julio Dias and threat to his life, stating further that in the existing circumstances it would not be possible to conduct a formal inquiry. It is stated in the dismissal notice that the action was taken with a view to enable the workers to work at peace and without coercion and to enable them to resume work at the earliest. Both the management, as well as the Union claim to have made efforts to arrive at negotiated settlement after the lock-out was declared. Admittedly these efforts did not succeed, each side seeks to blame the other for the failure to arrive at a negotiated settlement. The management claims to have put up notice dated 4th December 1973 stating that inasmuch as there were no incidents on 30th November and 1st December, 2nd December was a Sunday and 3rd December was a holiday, the management intended to lift the lock-out by 4th December, but due to the attitude of the employees displayed at the employees' meeting held on 2nd December the lock-out could not be lifted on 4th December, as originally intended.

4. According to the management, lock-out was lifted on 11th December 1973, a notice to that effect was put up, the employees as well as the union knew about lifting of lock-out, yet the employees failed to report for duty. According to the management, the employees refused to resume work until the three dismissed employees were reinstated. According to the union, although the management claims to have lifted the lock-out on 11-12-1973, the union was not informed about it. The union further alleges that in fact the lock-out was not lifted, putting notice to that effect was a mere show. The employees reported for duty but they were prevented entry, the police and the watchman did not allow them to enter. By their letter dated 28th December 1973 the employees informed the management that they did report for duty, but they were not allowed to resume duty, and that they were willing to resume duty.

5. It is common ground that some of the employees used to be at the gate of the factory every day after the declaration of the lock-out. According to the management, its vehicles were obstructed. There were certain other incidents also at the gate. On 22nd December 1973 families of officers were evacuated apprehending violence and consequent danger at the hands of the employees. Since 29th December 1973 the officers themselves also vacated their quarters for the same reason and started residing within the factory. There were two unfortunate incidents—one during the night between 11th and 12th January 1974 and the other on 18th January 1974, about which there are rival versions by the Union and the management. During the incident at night between 11th and 12th January 1974 several persons inside the factory were assaulted by the employees who according to the management were on strike. Khaunte, the Manager, was severely injured during this incident. During the incident on 18th January 1974 the factory premises were damaged to a considerable extent by stone throwing, some gun shots were fired from the factory. This incident of 18th January 1974 created a sensation and in view of the gravity of the situation the present references were made.

6. References (IT-GDD) Nos. 12 and 13 of 1974 relate to lock-out. There are two references because there are two concerns viz. M/s. Fabril Gasosa and M/s. Agencia E. Sequeira. The demand in these references reads thus:

«Whether the action of the Management of M/s. Fabril Gasosa, Borim, Ponda (Goa), and M/s. Agencia E. Sequeira, Borim Establishment, Borim, Ponda (Goa) in imposing a lock-out on all their workmen excluding security staff with effect from 23-11-1973 to 11-12-1973 was legal and justified?

If not, to what relief the said workmen are entitled to and from what date?

7. I shall first deal with these two references. In the statement of claim it is alleged that the attempts of the employees to form union in 1967 and 1969 were crushed down. With a view to put forth their demands the employees joined the CITU Union in May/June 1973. The management was informed by letter dated 18th October 1973 that the employees had joined CITU Union and it sought an early appointment to discuss the employees' demands. Reminders were subsequently sent. The management followed the unusual procedure of circulating a list, asking each and every employee to sign it stating whether he had joined the union or not under the pretext that it (the management)

wanted to know how many employees the union represents, but in actual practice every manager and top officer of the management started coercive methods and terrorisation. Half a dozen employees were set against the other employees with a view to break the union. As a part of these tactics Julio Dias, the Cashier, was used by the management to create a division amongst the employees and terrorise them. Utilising the discussion that some of the workers had with Julio Dias in the evening of 22nd November, 1973 outside the factory premises and labelling it as a gherao, the management took Julio Dias to Ponda Police Station and made him give a statement against the office-bearers of the Union, viz. Constantino Furtado, Joseph U. D'Souza, Affonsinho Fernandes and Gajanan Chodankar. On this pretext of alleged gherao the management declared lock-out on 23rd November 1973. So also the management summarily dismissed J.U.D'Souza, Affonsinho Fernandes and Constantino Furtado. The Union alleges that the lock-out declared by the management was thoroughly unjustified and illegal. So also the dismissal of the above-mentioned 3 employees is wholly illegal and unjustified. It is pointed out that no inquiry was held before dismissing these employees. It is further alleged that the management informed the union on 28th December 1973 that the lock-out was lifted on 11th December 1973, although in fact it was not lifted, with the result that although the employees reported for duty, they were prevented entry. It is further alleged that the management refused to accept the Union's offer made in the office of the Labour Commissioner for arbitration by R. C. Soares, the Manager, or Dr. Jack Sequeira. It is further stated that the union went to the length of withdrawing the dispute from conciliation with a view that a negotiated settlement could be arrived at, but the management refused to co-operate and continued its policy of terrorisation and victimisation. On these allegations the relief claimed is: (i) Declaration that the lock-out was illegal and invalid. (ii) The employees should be allowed to resume their duties with continuity of service and full back wages. (iii) Reasonable amount by way of damage for the mental agony and the loss suffered by the employees. (iv) Costs.

8. The management by its written statement denies the allegation that the formation of the union was disliked by the management and attempts to crush the union were made. It is alleged that on 22nd November 1974 Julio Dias, Cashier, was gheraoed and confined for hours, his life as well as that of his wife and children was threatened, the police had to be called to relieve Julio Dias. Tension was high and the workers built themselves up to a frenzy. In fact on return from Ponda Police Station R. C. Soares, Manager, A. Noronha and Ashok Khaunte, Manager, were stopped while they were in their cars proceeding to their quarters. J. U. D'Souza, Affonsinho Fernandes and others demanded as to why police were brought in a threatening attitude. Untoward incident was averted because of the presence of the police. Julio Dias refused to join the union in spite of the gherao and the threats, and there was every likelihood of worse incidents to follow. In these circumstances taking into account also the fact that attempt at sabotage was noticed, and apprehending peace might be disturbed inside the factory endangering the personnel and property of the employers, lock-out was declared on 23rd November 1973. It is further alleged that the management intended to continue the lock-out only until the tempers cooled down, and wanted to lift up the lock-out as early as possible. It is further alleged that the management requested the union to co-operate to restore normalcy, so that work could be resumed at the earliest, but the employees did not respond to this appeal. Since there were no incidents on 30th November and 1st December, the management intended to lift the lock-out on 4th December, 2nd December being a Sunday and 3rd December being a holiday, but at the meeting of the employees held on 2nd December 1973 the union incited the employees to further misbehaviour and an incident took place the same afternoon, which compelled the management to continue the lock-out. There were no incidents on 8th, 9th and 10th December, and following the assurance by the employees to R. C. Soares, Manager of Fabril Gasosa, lock-out was lifted on 11th December 1973 and a notice to that effect was put up. The employees who were at the gate were fully aware of the lifting of the lock-out, yet they failed to report for duty. It is further alleged that when the plant was re-started in January 1974, it was found to be tampered with. According to the management, the lock-out was primarily and specifically imposed for security reasons. The allegation that the workmen were not allowed entry, even though they wanted to resume work is denied. According to the management, the employees

refused to resume work until the 3 dismissed employees were reinstated. The allegation that attempts to bring about a negotiated settlement failed on account of lack of co-operation on the part of the management is denied. According to the management, the union as well as the employees were fully aware of the lifting of the lock-out immediately after the notice lifting the lock-out was put up on 11th December 1973. The offer for arbitration by R. C. Soares and Dr. Jack Sequeira by the union was not, according to the management, genuine, as violence continued simultaneously.

9. I shall first deal with the 2 references — References (IT-GDD) Nos. 12 and 13 of 1974 which relate to lock-out. The question referred to the Tribunal in these two references is: Whether the management of the two concerns, viz. M/s. Fabril Gasosa, Borim, Ponda (Goa), M/s Agencia E. Sequeira, Borim Establishment, Borim, Ponda (Goa), was justified in imposing lock-out on all their workmen, excluding security staff, with effect from 23-11-1973 to 11-12-1973, whether the lock-out was legal and justified. If not, to what relief the workmen concerned are entitled to and from what date. It is obvious that it will be for the management of the two concerns to justify declaration of lock-out. The lock-out notice is at Ex. C-24 and C-24A. (In these proceedings there are 2 notices, whenever a notice is put up, as there are two concerns). The grounds mentioned in the lock-out notice are:

- (i) A systematic campaign of coercion of fellow workers and personal threats to workers in order to force them to join the union.
- (ii) Intimidation of workers in the vicinity of the factory premises.
- (iii) As the result of the threats there was reason to believe that peace would be disturbed inside the premises of the factory/workshop and consequently assets thereof would be under threat of damage.
- (iv) Attempts to sabotage work inside were also noticed in the form of interference with fuel in vehicles.
- (v) Atmosphere and tension created by the above-mentioned activities has inherent probabilities of irreparable damage to the factory/workshop.

The same grounds are mentioned in the written statement of the management, giving some more details about the above-mentioned grounds.

10. Before I deal with the above grounds on which lock-out is sought to be justified, I must mention here the union's allegation which has some bearing on the question whether lock-out was justified. According to the union, the employees sought to form a union in 1967 and 1969. This activity of the employees was resented by the management and the management put down the attempts of the employees to form a union with a heavy hand. According to the union, in about May/June 1973 the employees concerned in these references joined the union i.e. All Goa General Employees' Union (Citu). The management was, however, informed about the formation of the union by the letter dated 18-10-1973, Ex. C-20. So also this letter sought from the management appointment for negotiations over certain demands of the employees. The union alleges that even in 1973 the management resented formation of union and with a view to harass and terrorise the employees joining the union circular setting out the names of all employees was issued, asking each individual employee to state against his name whether he had joined the union or not. According to the management, this circular was issued with the view to ascertain the representative character of the union. The union further alleges that certain employees were put up by the management to threaten those employees who had joined the union and compel them to leave the union. In fact, the union suggests that declaration of lock-out was also one of the steps taken by the management to crush the union.

11. With regard to attempts at formation of union in 1967 and 1969, the management has not specifically denied such attempts. There is, however, hardly any evidence to support the union's allegation that the attempts at formation of union in 1967 and 1969 were put down by the management. The evidence contains only the allegation that some employees who joined the union were transferred. Evidence does disclose some transfers. Transfer by itself cannot, however, be considered to be a step to put down the formation of union, unless the transfer orders are proved to be malafide. There is hardly any evidence to prove that transfer orders were malafide. No reliable evidence is led by the union to establish any steps by the management, which would clearly indicate that those steps were attempts to crush the union. I therefore, hold that the union has failed

to establish that there were attempts by the management to frustrate the employees' attempts to form a union in 1967 and 1969. In fact, there is hardly any evidence in support of this allegation.

12. With regard to formation of union in 1973 also, the union has not in my view led evidence which would justify the conclusion that the management took steps to crush down the union. The fact that each individual employee was asked to state whether he had joined the union or not is not denied by the management. The circulars issued by the management of the two concerns in this respect are Exs. C-41 and C-42. Issuing of these circulars can be said to be malafide only if subsequent events show that there were positive attempts to crush down the union. Issuing such circulars by itself cannot be said to be a step to put down the union. If the management wanted to ascertain the representative character of the union before starting negotiations as suggested by the union, such a step cannot be said to be unreasonable. Moreover the evidence of both the management, as well as the union unmistakably discloses that the circulars, Exhs. C-41 and C-42, were willingly signed by most of the employees. What is more important is that the evidence further establishes that some employees joined the union even after signing the circular.

13. The next allegation is that the management had set up certain officers and employees such as Julio Dias and some others to threaten the employees who had joined the union. It is true that some employees like Julio Dias refused to join the union. There is, however, hardly any evidence beyond suggestions in the cross-examination that the employees who did not join the union were put up by the management to threaten other employees who had joined the union. The evidence led by the union does not disclose positive acts of threats on the part of the management's officers or some employees who had not joined the union.

14. The union's first letter, Ex. C-20, to the management informing formation of union and seeking appointment for negotiations is dated 18-10-1973. It is true that the management's reply was somewhat delayed, it is Ex.C-17 dated 10-11-1973. It is, however, clear that the management did not desire to carry on correspondence with the union unless its representative character was ascertained, which was done by the circulars Exs. C-41 and C-42, which are dated 3rd November 1973. The management's reply, Ex. C-17, mentions that the Manager Mr. Soares was requested to write to the union about the appointment sought by it on his return from leave towards the end of the month-November 1973. The evidence discloses that Soares resumed duty after leave on 20-11-1973. It is, however, unfortunate that certain events that took place on 22nd November 1973 induced the management to declare lock-out on 23-11-1973. There is no evidence to indicate that the management's consent to give an appointment was a mere show. Events subsequent to declaration of lock-out also do not indicate that the management did not desire to negotiate with the union. This will be clear from the discussion regarding these events which will follow. It is important to note that in the correspondence carried on by the union upto the date of the lock-out i.e. 23-11-1973 there is no allegation that the management harassed or threatened the employees who had joined the union. This allegation appears for the first time in the union's letter, Ex. C-15, which is dated 27-11-1973 i.e. 4 days after the lock-out was declared. If there was any substance in the allegation that the employees who had joined the union were harassed and threatened, I have no doubt that the union would have referred to it in the correspondence upto 23rd November 1973. I, therefore, hold that the union has failed to establish its allegations that the management resented formation of union and set up some employees to threaten those who had joined the union.

15. I shall now deal with the grounds alleged by the management to justify the lock-out. The first ground is coercion of fellow workers with threats with a view to force them to join the union. In this respect three incidents are alleged and sought to be relied upon.

They are:

- | | |
|-------------------------------|--|
| (i) 13-11-1973 | Firing of crackers at Sachit Naik with a view to force him to join the union. |
| (ii) 21-11-1973
22-11-1973 | Following J. D'Costa, Carpenter and firing crackers at him with a view to force him to join the union. |

(iii) 22-11-1973

Julio Dias, the Cashier was gheraoed and he had to be relieved with the help of the police. This was followed by abuses to officers and their wives, and obstruction to officers' cars.

16. With regard to crackers alleged to have been fired at Sachit Naik, I must mention here that neither the union, nor the management has examined Sachit Naik. The evidence relied upon is that of U.W.3—Francis Mascarenhas. Portion of the evidence relied upon reads thus:—

«Carpenter and Sachit Naik fired crackers, they are not members of the union, seeing this other workers who are members of the union also fired crackers, hence police were called».

This evidence merely establishes that there were some incidents of firing crackers by employees who did not join union, as well as by those who joined union. It does not, however, establish the management's version, particularly when the person concerned Sachit Naik is not examined. This witness says Khaunte called police on 13-11-1973. Khaunte, however, does not in his evidence say that he called police because crackers were fired at Sachit Naik. Reliance is also placed on the evidence of U.W.10—Joseph Francis D'Costa. His evidence merely shows that about a week prior to 23-11-1973 there was some incident in which crackers were fired. This also does not carry the management's plea any further. Reliance is further placed on the evidence of U.W.5—Archibald D'Souza. Para 5 of his evidence is relied upon. This evidence merely shows that Sachit Naik and J. D'Costa became members of the union after the above-mentioned circular was signed by them. From this it does not necessarily follow that they became members under coercion because crackers were fired at them.

17. With regard to second incident, viz. following J. D'Costa—Carpenter—and firing crackers at him, reliance is placed on the evidence of M.W.1—Soares, Manager of Fabril Gasosa. In his evidence Soares says that on 21-11-1973 Joseph D'Costa—carpenter while he was going home after duty was followed by some workmen, crackers were fired at him. Evidence in examination-in-chief reads as if Soares did not himself see the incident, it was reported to him by D'Costa—carpenter the next day, adding that this was done with a view to coerce him to join the union. In the cross-examination Soares says that J. D'Costa—carpenter told him on 21-11-1973 at about 9.00 a.m. that he was pressurised to join the union. This relates to some prior incident, and the incident that happened in the evening on 21st was a separate incident; he (Soares) claims to have seen that incident of 21st himself. He admits that no written complaint was given by the carpenter. Soares says that there were about 20 persons, who followed the carpenter. Examination-in-chief of Soares does not indicate that he was an eye-witness to the incident that took place on 21-11-1973 in the evening. Even assuming that he was an eye-witness, the evidence does not disclose that this incident took place on the business premises during working hours. It does appear that the incident must have taken place outside the business premises, though it may be nearby and after working hours. Reliance is also placed on the evidence of U.W.5—Archibald D'Souza who says that on 21-11-1973 at about 5.15 p.m. he saw several workers near the gate leading to the carpenters' quarters. He, however, says that he did not notice what they were doing. He denies that the carpenter was threatened. In my view all this evidence does not conclusively establish that J. D'Costa—carpenter was pressurised by about twenty workmen following him and by firing crackers at him to join the union, particularly when J. D'Costa—carpenter is not examined.

18. I shall now deal with the alleged gherao of Julio Dias. According to the union, some employees who had become members of the union did have a talk with Julio Dias, presumably with a view to persuade him to become a member of the union, but this is magnified into a gherao by the management. According to the management, Julio Dias was throughout reluctant to become a member of the union, he was gheraoed for nearly an hour, during this time he and his family members were threatened, all this was done to coerce him to become a member of the union, situation was grave and police had to be called to relieve him. Julio Dias—Cashier is examined by the management. In my view, his evidence cannot be implicitly relied upon, as it is obvious that even while giving evidence before the

Tribunal he gave it under pressure on either side. I have stated so in my order dated 29-3-1974 allowing the management to cross-examine him. Julio Dias made four statements before the police with regard to this alleged gherao, they are Exhs. C-52, C-66, C-53 and C-54. These statements are mutually inconsistent. Ex. C-52 is the first statement made by Julio Dias immediately on going to the police station. In this statement he says: 'At the moment I have no complaint, and any further complaint will be made, if necessary, after consulting my proprietor Mr. Erasmo Sequeira.' This shows that whatever complaint Julio Dias lodged was not on his own, but he lodged his complaint only after consulting the management.

19. Ex. C-66 is the next statement, although it bears no date, the contents thereof make it clear that it must have been made subsequently on 22-11-1973. In this statement Julio Dias says that a crowd of workers surrounded him and requested him to become a member of the union which he refused. He was then threatened that if he did not become a member of the union, his life would be in danger. He further says that he told the workers who had surrounded him that he was not prepared to join the union with such a roudy crowd. He says he was surrounded and thus detained for 45 minutes after which he was released by the police. In the first place this statement, Ex. C-66, contains no allegation of threats to family members of Julio Dias. Even the alleged threat to his life does not seem to have been taken seriously by Julio Dias, as even after this threat Julio Dias was bold enough to say that he was not prepared to join union, calling those who surrounded him as 'roudly crowd'. In this statement Julio Dias alleges that Gajanan Chodankar requested him to become a member of the union, but when he refused to become a member of the Union, Afonsoinho, Constantino Furtado and J.U.D'Souza threatened him as stated above.

20. Ex. C-53 is the statement of Julio Dias dated 23-11-1973. Julio Dias was called by a police constable to Ponda Police Station and then this statement was recorded. In this statement Julio Dias says that Afonsoinho Fernandes, Constantino Furtado, Gajanan Chodankar and J. U. D'Souza took a leading part during the gherao incident. In this statement Julio Dias adds further details which are not mentioned in his earlier statement Ex. C-66. This statement also shows that Julio Dias was firm in refusing to become a member of the union in spite of the pressure brought on him, he told those who surrounded him 'Nobody could force me to do anything... I was not prepared to join such a roudy crowd'. It is important to note that even this statement does not allege threats to the family members of Julio Dias. It is obvious that some details are added, details which do not appear in the statement, Ex. C-66.

21. The next statement is Ex. C-54 dated 25-11-1973. It was sent by Julio Dias to the Inspector, Ponda Police Station, by post. In this statement after referring to his earlier statements Julio Dias says: 'I do not know what exactly I have written, because I was completely confused and nervous. Now that the situation has calmed, I am giving you full detailed statement of the facts as happened... I have given some names viz. of J. U. D'Souza, Constantino Furtado, Afonsoinho Fernandes and Gajanan Chodankar. These four people were on the road. There were others also, but the confusion was so great that I myself do not know what happened as at that moment I was really nervous. I cannot pinpoint who was forcing me to join the union or who was threatening me.' This statement clearly withdraws the allegation that the four employees named above took a prominent part and indulged in threats. Julio Dias no doubt alleges that he was nervous, but as pointed out above, his statements do not indicate that he was really nervous.

22. It is thus obvious that there is no consistency in the statements of Julio Dias referred to above. In view of this, evidence of Julio Dias cannot be relied upon in support of the management's allegation that the three employees who were dismissed on 23-11-1973 took a leading part in gheraoing Julio Dias. Evidence of Julio Dias must, however, be referred to, as it clearly shows that Julio Dias himself never apprehended any danger to his personal safety, nor any violence at the hands of those who were near him. His evidence does not disclose that police aid was necessary, but it was the management who in its discretion choose to call the police. In his evidence Julio Dias says that he saw Soares before he went to the road where he was surrounded by workmen. Soares offered lift to Julio Dias, which he declined stating 'workers can get me the next day, if not to-day, for enrolling me as a member.' This

indicates that Julio Dias did not apprehend any manhandling or violence at the hands of the employees who had joined the union, he was not afraid of going towards them, although he did expect that they would try to persuade him to become a member of the union and would insist on it. Julio Dias in his evidence further says: 'Insistence that I should become a member continued. I told them that I was as much free not to become a member, as any other person was free to become a member.' This evidence shows that Julio Dias was not at all nervous, nor did he apprehend any violence at the hands of the employees who had surrounded him. There is nothing in the evidence of Julio Dias before the Tribunal, nor in his statements before the police—considering them together—to indicate that he really apprehended any violence at the hands of the employees who surrounded him. In view of this, the alleged threats to him and his family that appear in his statement before the police, Exh. C-66, cannot be taken seriously. There is no doubt that Julio Dias was surrounded and detained for about forty-five minutes to an hour, but it is important to note that this was done neither on the business premises, nor during working hours. It is true that this was near the business premises i.e. just outside the gate, but considering the evidence as a whole I have no doubt that there was no danger to the personal safety of Julio Dias, nor was any violence meted out to him, hence the management should not have taken such a serious view of this incident. Soares in his evidence says that he did not intervene as, according to him, the employees who had surrounded Julio Dias were highly excited. The statement that these workers were highly excited appears to be a little exaggerated statement. He was right in not intervening, as his intervention would have been resented and may have led to excitement. Evidence of Julio Dias further discloses that when the police constables released him and took him to Ponda Police Station, he was asked whether he had anything to say. Julio Dias said 'No' and started going home. A constable, however, asked him 'Don't you want to give a statement?' Thereupon Julio Dias asked the constable to wait, saying that he would consult the Manager i.e. Soares and then say whether he would make a statement or not. Accordingly he rang up to Soares, Soares and Noronha—Officer Statistics, Fabril Gasosa, went to Ponda, they had a talk with Julio Dias, who then made his statement to the police. Julio Dias admits that Soares was present nearby when he made his statement to the police on 22-11-1973. Soares in his evidence admits that he rang up Ponda Police Station and called police to relieve Julio Dias, as per instructions of E. Sequeira. Evidence of M.W.12—E. A. Joseph was referred to. His evidence does not carry the management's case any further. On this evidence it is impossible to hold that the above-mentioned incident with regard to Julio Dias can be described as a serious gherao. All that is established is: About 30/40 employees who had become members of the union surrounded Julio Dias outside the factory gate on the public road after working hours and detained him for about an hour or so with a view to persuade him to become a member of the union. Julio Dias, however, did not yield in spite of this detention for about an hour, this itself shows that he was not terrified, as is sought to be made out by the management. A union always makes efforts to enrol more workers as members, it would, however, be unnecessary or the management concerned to interfere, unless such activity of the union interferes with the management's normal working or involves some danger to the personal safety of an employee who is unwilling to become a member. As pointed out above, I have no doubt whatever that there was no danger to the personal safety of Julio Dias, he himself did not apprehend any violence, and the threats mentioned in his statement before the police, Exh. C-66 cannot certainly be taken at par. In any case, Julio Dias himself does not seem to have taken those alleged threats seriously. It is urged that but for the declaration of lock-out, gherao would have been repeated the next day. I do not find any evidence to justify such an inference.

23. The evidence of Soares is that on 22-11-1973 after advising Julio Dias to lodge his complaint he rang up to his residence and asked his wife as to what the situation was near his residence, when she told him that there was a group of 25 workers at the gate of the officers' quarters, they were shouting obscenities with reference to officers' wives, they also wanted to know who had called the police. In view of this information he requested for scort at Ponda Police Station. Accordingly 2 constables accompanied him. Soares and Khaunte returned from Ponda to their quarters in their cars. Khaunte's car was ahead, it was stopped by 8/9 workers who were there at the gate of officers' quarters, Khaunte asked them why they stopped the car, the workers told him

that they wanted to know who called the police, Khaunte said he did not know. The workers then proceeded towards the car of Soares, Soares got out of his car and asked the workers as to why they obstructed the car, the workers—according to Soares—justified obstruction on the ground that it was a public road. Soares and Khaunte went to their quarters with the help of the two constables who escorted them from Ponda. Considering the evidence of Soares and Khaunte, it does appear to me that the employees who had surrounded Julio Dias were excited, finding that Julio Dias was all of a sudden taken away from amongst them by police constables, even though there was no violence. They resented interference by the police and wanted to know who had called the police. With this object they went towards officers' quarters, stood at the gate of those quarters and shouted slogans. It may be that they abused the officers for calling police, they presumably came to know that Soares had gone to Ponda Police Station, hence they waited there expecting him to return, so that they could ask him who called the police. None can justify abuses, but one has to bear in mind that this is not an uncommon feature when workmen get excited. It is also important to note that the workmen, though excited, were not inclined to be violent even when Soares and Khaunte arrived in their cars. The evidence of Khaunte shows that there were 8/9 workers who obstructed their cars. It is true that Soares and Khaunte were accompanied by two constables, but there is nothing to show that these constables were armed constables, in all probability they were not. In this situation if the 8 or 9 workers there did intend to be violent, incident worse than what actually happened would have followed.

24. Evidence of M.W.2 Shivanand Nagwekar was relied upon. His evidence is that he saw gherao of Julio Dias and thereafter he heard shouts showering abuses on the officers till 1.00 a.m. Evidence of even Soares and Khaunte does not indicate that showering of abuses went on upto 1.00 a.m. It is obvious that Nagwekar is exaggerating. Evidence M.W.12 E.A. Joseph is also referred to. This evidence does not carry the case any further.

25. I shall now deal with the allegation regarding sabotage. The sabotage alleged is addition of water to the diesel in the tanks of the vehicles. In this respect reliance is placed on the evidence of M.W.2—Nagwekar, M.W.3—Khaunte, M.W.1—Soares and M.W.11—Erasmio Sequeira. Reliance is also placed on the job cards, Exs.C-44 and C-45. It is important to note that evidence of Khaunte, who is the Manager of Borim Establishment, itself makes it clear that there was no such trouble prior to 14th November 1973. It was only from 14th November 1973 that he received 2/3 complaints regarding addition of water to diesel in the tanks of vehicles. Evidence of M.W.2—Nagwekar, supervisor of the workshop, shows that there were only two vehicles in respect of which filters had to be changed because of addition of water to the fuel during the period from 14th to 23rd November 1973. (See end of para 1 of his evidence) I have carefully considered the evidence of Khaunte and Nagwekar, which is the main evidence, and it does appear that there were 2 cases in which addition of water to the fuel was detected, and consequently filters had to be changed. Evidence of M.W.1—Soares and M.W.11—Erasmio Sequeira would not be material, as they have no personal knowledge, their evidence is based on what Khaunte reported to them. The evidence further shows that one of these two vehicles was brought to the workshop on 21st evening, but it could not be started in the morning on 22nd due to addition of water to the fuel. This is relied upon to contend that water was added to the fuel overnight. Management has led evidence to show that the chemist examined the diesel in the store-tank and found that no water had crept into that tank and got mixed up with the diesel, as suggested by the union. On the evidence of Khaunte and Nagwekar I hold that there were two cases of addition of water to the fuel in the tanks of those two vehicles during the period from 14th to 22nd November 1973 (inclusive). Even according to Khaunte such cases were not more than three. It is, however, important to note that the management itself does not appear to have taken a very serious view of these cases of addition of water to the fuel in the tanks of vehicles. Evidence of Soares and Khaunte clearly shows that Soares instructed Khaunte to keep a watch and find out the culprit. This itself indicates that addition of water to fuel was not then viewed by the management with seriousness, as is sought to be done in the lock-out notice and at the hearing of these references.

26. It is urged that on 5-1-1974 when the plant of Coca Cola factory was to be started, it was detected that the plant was tampered with. According to the management

this must have been done by the three employees who had entered into the factory just before the lock-out was declared on 23-11-1973. In this respect reliance is placed on the evidence of M.W.12-E.A. Joseph. In his evidence he says that he wanted to explain the working of the machines to the new employees. For this purpose when he went to the bottle-filling machine, he found that the starter switch was tampered with. Drive motor of bottle-filling machine was burnt because of tampering with the switch, by-pass valve of Ammonia Compressor was left open, wire near the boiler was short-circuited, water-valve of the boiler was tampered with, with the result that it would not open. In the first place, declaration of lock-out was not based on this alleged tampering, as is clear from the lock-out notice. In fact, this alleged tampering was discovered only on 5-1-1974 when the plant was to be re-started. It is, however, urged that this justifies the apprehension entertained by the management while declaring lock-out. It is only for considering this aspect that I propose to discuss the evidence in this respect. The union has examined U.W.8-Suresh Naik, loader in Coca Cola factory. In his evidence he says that on 23-11-1973 he was asked by the foreman to attend duty at 7.00 a.m. Accordingly he did go to the factory at 7.00 a.m., although regular shift begins at 8.00 a.m. J. D'Souza and J. D'Costa were with him. They also came at about 7.00 a.m. on 23-11-1973. According to Suresh Naik, their duty was to heat the boiler, that is why they are called earlier, so that normal functioning can begin at 8.00 a.m. Suresh Naik further says that within 5/10 minutes on his arrival, they i.e. himself and his two companions were asked to go out by Mr. Soares without assigning any reason. He was cleaning the table, when he was asked to go out. The other two were in the plant room. According to Suresh Naik, Soares, the Manager, came to the office immediately after they entered the factory. They were first called to the office and then asked to go out. According to Suresh Naik, his two companions had not started the work, when they were asked to go out. This, however, is his inference, as they were asked to go out within 2/3 minutes of their arrival. His cross-examination shows that his two companions went back to the plant, when they were asked to go out, and then came out. According to Suresh Naik, they left within five minutes after they were asked to go out. Reliance is placed on the statement of Suresh Naik that J. D'Souza and J. D'Costa went back to the plant after they were asked to go out, to contend that they must have tampered with the plant at that time. There is nothing in the evidence to show that the employees had any idea that lock-out would be declared before Suresh Naik and his two companions were asked to go out and actually went out. It is important to note that evidence of Suresh Naik is that they were asked to go out without assigning any reason, that seems to be more probable. Soares who is an experienced Manager would not like to disclose the proposed lock-out until the workers were out as per his orders. Moreover the evidence of U.W.10-J. D'Costa indicates that declaration of lock-out was disclosed to J. D'Costa and J. D'Souza only after the plant room was locked. According to J. D'Costa, he attended duty at 7.00 a.m. on 23-11-1973, while he was about to start the plant, Soares, the Manager, came in and asked him not to start the plant and came to the office. When asked as to why the plant was not to be started, Soares said: 'Come to the office, I will tell you'. Suresh Motu Naik and J. D'Souza were also called with him to the office. In the office Soares told them: 'You can go'. Soares asked them to lock the plant room and hand over the keys to him. The sequence of D'Costa's evidence shows that it was thereafter that they were told about the declaration of lock-out. It is common ground that these three employees were on 23-11-1973 on maintenance duty and were asked to come earlier at 7.00 a.m. The union does not dispute that they came to the factory at 7.00 a.m. and were there when Soares came, but denies tampering with the plant. The question for consideration is whether the evidence discloses that these three employees had any idea that lock-out was about to be declared, so that they would be inclined to tamper with the plant. Cross-examination of J. D'Costa shows that J. D'Souza was to start the boiler. When asked pointedly, J. D'Costa said that Soares first asked them to lock the plant room and come to the office again, they did it accordingly, and it was thereafter that they were told that there was a lock-out. He denies the suggestion that Soares told them about the declaration of lock-out, when he called them for the first time.

27. Soares in his evidence (para 4) says that Suresh Naik, J. D'Costa and J. D'Souza were already in the factory

when he went to the factory. He further says: 'I asked them to get out in view of the lock-out, accordingly they went out'. There is nothing in the evidence of Soares to indicate that these three employees lingered in the plant room after they came to know that a lock-out was to be declared. The management has produced the attendance cards of these three employees, but since their presence in the factory by 7.00 a.m. is not disputed, I need not refer to them in detail. This is all the evidence on the alleged sabotage of the plant. The evidence does not disclose that at least till 7.00 a.m. on 23-11-1973 the employees had any idea that lock-out was imminent. Thus the only question for consideration is whether Suresh Motu Naik, J. D'Costa and J. D'Souza had any opportunity to tamper with the plant within the short time they were in the factory from 7.00 a.m. before they were asked to go out by Soares and they actually went out. Considering the probabilities, I think it is unlikely that experienced Manager like Soares would allow these employees to loiter in the plant room after conveying to them that lock-out was declared. While considering the probabilities, it is important to note that according to the management excitement of the employees the previous night i.e. on the night of 22-11-1973 was so much that it led to the decision of declaration of lock-out. If this was the view of the management of the mental condition of the employees, it is altogether unlikely that Soares, an experienced Manager would be off the guard and would allow these 3 employees an opportunity to tamper with the plant. With the above background, I have no doubt that Soares would be careful in watching the activities of these three employees before they got out as per his orders. Considering the evidence as a whole, I hold that Soares knew that lock-out had to be declared, hence immediately on coming to the factory he asked the above-mentioned three employees to come to his office, when they went to his office, he asked them to lock the plant room and go out. It was only thereafter that Soares disclosed to them that lock-out was declared, hence they were asked to go out. Moreover with the above background it is unlikely that after asking these employees not to start the plant and go out, Soares would remain off the guard and would not watch the activities of these employees. I am, therefore, unable to hold that the alleged sabotage is established by the management. It is also important to note that this alleged sabotage was discovered as late as on 5-1-1974, the intervening period is too long and one does not know what happened during this long interval. Allegation of sabotage is a serious allegation and cannot be held proved unless there is satisfactory evidence about it.

28. Reliance is also placed on the evidence of M.W.1—Soares, M.W.3—Khaunte and M.W.8—S. I. Caeiro to the effect that after the declaration of lock-out the same day i.e. on 23-11-1973 S. I. Caeiro advised the officers i.e. Soares and Khaunte not to go out without escort, as the police apprehended assault at the hands of the employees who were, according to the police, highly excited. It may be that the police did feel that the workers were excited over the declaration of lock-out, and assault on Soares and Khaunte was likely. This excitement of the workers cannot be attributed to anything that happened prior to the declaration of lock-out. It is obvious that when unemployment was unexpectedly forced on a large number of workmen, more than 120, they were excited, no other reason was necessary for this excitement. It is also important to note that although abusing and shouting slogans near the officers' quarters went on at about 8.00 p.m. on 22-11-1973, the evidence does not disclose that that excitement continued till 1.00 a.m., as suggested by the management. Considering the evidence as a whole, I am of the view that the excitement near the officers' quarters on 22-11-1973 must have subsided soon after Soares and Khaunte went to their quarters. That the excitement lasted till 1.00 a.m. seems to be an exaggerated version. I, therefore, hold that the fact that Soares and Khaunte were advised by the police not to stir out without police escort after declaration of lock-out would not in any way justify the inference that the workers were highly excited even before declaration of lock-out, and this circumstance, viz. the above instructions by the police cannot be relied upon in support of the justification of lock-out.

29. Thus the facts that are established by evidence are:

(i) The union did try to persuade the employees to become members of the union, and in doing so they were quite active, but the evidence does not disclose any violence or threat to personal safety of the workers who were unwilling to join the union, but were asked to join the union. In substance there was quite active, and

perhaps over-enthusiastic, work by the union in trying to persuade employees to join union, although they were unwilling to do so, but the evidence does not certainly establish that coercion involving violence or serious threat of violence, or danger to personal safety was practised. It is also important to note that this activity of the union did not interfere with the normal working of the management. The campaign to enrol members went on outside the business premises and after working hours. The mere fact that this activity went on just near the business premises would not in my opinion make material difference, so long as such activity did not interfere with the normal working of the management, nor did it pose a real threat to normal working.

(ii) Julio Dias was undoubtedly surrounded and detained for about 45 minutes with a view to persuade him to join the union, but as pointed out above he himself never apprehended any violence or danger to his personal safety at the hands of those who surrounded him. On the other hand Julio Dias braved all the enthusiasm of the union and successfully refused to join the union.

(iii) There were undoubtedly two cases of adding water to the fuel in the tanks of the vehicles. The management seems to have come to the conclusion that these were planned acts of sabotage only after Julio Dias incident and the subsequent trouble at the gate of the officers' quarters, but prior to that no serious view of this was taken.

(iv) Evidence shows that those who had joined the union fired crackers at two employees who were unwilling to join the union. The evidence also shows that those who were unwilling to join union fired crackers at those who had joined the union. (See para 5 of U.W.3, Mascarenhas).

30. These are the only facts established by the evidence. The question for consideration is whether declaration of lock-out can be said to be justified on this evidence. It is urged by the management that apprehension of obstruction to normal working of business and of danger to management's property and personal safety is enough, it is not necessary that there must be actual obstruction to the normal working or actual violence practised. This undoubtedly is correct. The apprehension must, however, appear to be reasonable. On the facts established, it is difficult to hold that there were grounds for apprehension which would justify declaration of lock-out forcing unemployment on employees more than 120. As already pointed out, there is nothing to indicate that there was real threat to normal working or to safety of person or property, the normal working of the business was in no way interfered with right upto 23-11-1973, the date of declaration of lock-out. The only circumstance that can be said to interfere with the normal working is the addition of water to the fuel in the tanks of two vehicles. This, however, is a minor circumstance which could have been stopped by other remedies. The management has security staff which could have been alerted, in fact these were the instructions issued by E. Sequeira to Soares. In my view, this circumstance along with the union's activity to enrol members mentioned above would not justify the declaration of lock-out. It is true that there was some sort of excitement after Julio Dias was released by the police. The employees who had surrounded Julio Dias were undoubtedly excited with the interference by the police, they wanted to know who had called the police. They undoubtedly acted in an indiscreet manner in going near the gate of the officers' quarters and hurling abuses on officers and their wives. All the same what is important to note is that even in this excitement there was no indication of any violence, as pointed above. This excitement was in the first place caused by the indiscreet act of the management in calling police and getting Julio Dias released. Moreover the excitement was not serious, as it indicated no violence and would not justify the apprehension of interference with the normal working. As already pointed out, this excitement abated by about 9/10 p.m. i.e. soon after Soares and Khaunte went to their quarters. I, therefore, hold that the declaration of lock-out was unjustified.

31. The question referred to is whether the lock-out declared on 23-11-1973 was legal and justified. I have already held that the lock-out was not justified. It is urged by the union that Soares and Khaunte had no authority to declare the lock-out. There is no substance in this contention. The evidence does show that Erasmo Sequeira, who is the proprietor of Fabril Gasosa and partner in Agencia E. Sequeira, issued instructions to declare lock-out, which were merely carried out by Soares and Khaunte, the managers of the

two concerns. In the first place, there is no evidence to indicate that the Managers—Soares and Khaunte had no authority to declare a lock-out, there is no positive evidence to that effect, and in any case the evidence clearly establishes that they merely carried out the instructions of Erasmo Sequeira. It is not even suggested that Erasmo Sequeira had no authority to declare a lock-out. In view of this, the lock-out cannot be said to be illegal.

32. In view of the findings recorded above, the employees of Fabril Gasosa and Agencia E. Sequeira, i.e. employees of Coca Cola factory and the workshop-Borim Establishment, will be entitled to their full wages for the lock-out period i.e. 23-11-1973 to 10-12-1973 (inclusive). It is true that notice lifting the lock-out was put up on 11-12-1973. It is, however, obvious that all the employees concerned would not come to know the lifting of lock-out immediately. The evidence shows that a meeting of the employees was held on 11th December 1973 (See Exh. C-89). In view of this, I think it is fair to allow wages for two more days. I, therefore, hold that the employees are further entitled to wages for two more days i.e. 11th and 12th December 1973. I direct the employers to pay the same. Award accordingly.

33. References (IT-GDD) Nos. 10 and 11 of 1974 relate to the dismissal of Afonsinho Fernandes, Constantino Furtado and Joseph U. D'Souza. The demands in the two references read thus:

«Whether the action of the Management of M/s Agencia E. Sequeira, Borim Establishment, Borim, Ponda (Goa) in terminating the services of Shri Afonsinho Fernandes, workman, with effect from 23rd November 1973, was legal and justified;

If not, to what relief the said workman is entitled to and from what date?»

«Whether the action of the Management of M/s. Fabril Gasosa, Borim, Ponda (Goa) in terminating the services of S/Shri Constantino Furtado and Joseph U. D'Souza, workmen, with effect from 23rd November, 1973, was legal and justified?

If not, to what relief the said workmen are entitled to and from what date?»

34. There are two references because Afonsinho Fernandes was an employee of M/s. Agencia E. Sequeira, while Constantino Furtado and Joseph U. D'Souza were the employees of M/s. Fabril Gasosa. In the statement of claim employees' attempts to form union and the attitude of the management towards these attempts as mentioned above is set up. Reference to declaration of lock-out is also made. It is further alleged that these employees were dismissed without giving any reasons or justification. Misconduct which, according to the union, was subsequently alleged is denied. The allegation that co-workers were terrorised is denied. It is pointed out that Julio Dias has made three different statements on 22nd, 23rd and 25th November 1973, Julio Dias himself does not state that the employees mentioned in the dismissal notices participated in the gherao. The dismissal orders were received on 22nd November 1973. The allegations in the dismissal orders were denied by the employees by their letters dated 3rd December 1973 and they requested for reinstatement, but the management turned down the request by their letter dated 10th December 1973. No inquiry was held, no opportunity was given to the employees concerned to show that they were not guilty of the misconduct alleged against them. On these allegations, the employees claim reinstatement with full back wages, along with a reasonable sum by way of damages for mental agony and loss otherwise suffered by them.

35. By its written statement the management alleged that the 3 dismissed employees were terrorising fellow workers, Julio Dias was gheraoed on 22nd November 1973, he was threatened, threats against his life and that of his wife and children were uttered. The management asserts that the termination of services is legal and valid. The implied suggestion that the dismissal orders were pre-dated is denied. It is pointed out that the offer for joint reference for arbitration made by the management was refused by the union. The allegation that attempts were made to crush down the union is also denied. The offer for joint reference for arbitration was made on 26th November 1973 when—according to the management the union started inciting the workmen to give threats and practice coercion, and it was noticed that the dismissed employees played increasing part in indulging in threats and coercion. It is pointed out that the dismissal orders were displayed on the wall of the watchman's cabin

on 23rd November 1973 itself. The allegation that these three employees were dismissed because they were office-bearers of the union is denied. The management admits that there was no inquiry, but seeks to justify the action at the hearing of these references. The incidents of threats, intimidation and violence indulged into by the employees made any negotiations for settlement impossible. In fact the management alleges that at no stage the union was amenable to negotiations in respect of the dismissal of these three employees. The management thus seeks to justify the dismissal orders on the grounds mentioned in the dismissal orders, supported by subsequent events in which the dismissed employees took a prominent part.

36. These two references relate to the dispute regarding termination of services of three employees—(i) Afonsinho Fernandes, an employee of M/s Agencia E. Sequeira, Borim Establishment, (ii) Constantino Furtado (iii) Joseph U. D'Souza, both employees of Fabril Gasosa. The termination notices are at Exhs. C-32, C-33 and C-34. The grounds mentioned in these notices are:

(i) Terrorising co-workers of the plant and the workers of allied units which ultimately culminated in the gherao of Julio Dias and threats to his life.

(ii) The above-mentioned acts are serious and immediate action to enable the other workers to work at peace and without gherao is necessary.

The notices further mention that in the existing circumstances it was not possible to conduct a formal inquiry, and immediate action being necessary dismissal order is passed. Constantino Furtado received the notices on 26-11-1973, while Afonsinho Fernandes and J. U. D'Souza received the notice on 27-11-1973. The management, however, contends that dismissal notices were displayed on the watchman's cabin at the gate and the employees concerned came to know about the dismissal orders almost immediately. With regard to these termination orders, the employees concerned contend that the allegations in the termination notice are false. It is further suggested by the union that these three employees were dismissed as they were active workers of the union.

37. The three employees addressed letters Exhs. C-35, C-36 and C-37 denying the allegations in the termination notices, stating further that no inquiry was held, hence the order should be vacated. It is further stated that the management was not prepared to accept the fact that the employees had joined the union, hence they were victimised, as they were active workers of the union. Exhs. C-38, C-39 and C-40 are the management's replies reiterating its stand in the termination notices and denying the allegation that management was not prepared to accept the fact that the employees had joined the union.

38. Since the dismissal orders are passed admittedly without holding inquiry, the management sought for an opportunity to justify its action, that opportunity was allowed and the management as well as the union has led evidence in this respect.

39. To justify the dismissal orders reliance is placed on the evidence of Soares, Manager of Coca Cola factory. Soares in his evidence says that the employees concerned in the incident dated 21-11-1973 in which crackers were fired at Joseph D'Costa, carpenter, were also concerned in gheraoing Julio Dias. These employees were led—according to Soares—by these three dismissed employees. According to Soares, the gherao was staged to force Julio Dias to become a member of the union. Soares then refers to the employees' misbehaviour and obstruction to his car and Khaunte's car at the gate of their quarters. With regard to this incident, he mentions that J. U. D'Souza approached his car after obstructing the same. He does not mention the other two with regard to this incident. It is important to note that the evidence of Soares merely shows that the three dismissed employees participated in the incident during which crackers were fired at the carpenter, in gheraoing Julio Dias and J. U. D'Souza participated in obstruction to the cars of Soares and Khaunte. No specific acts of violence are even alleged. Khaunte's evidence is to the same effect.

40. Reliance is further placed on the evidence of Julio Dias. I have already observed that the evidence of Julio Dias cannot be said to be reliable in view of the changing statements made by him, and also in view of the fact that it was clear that even when he gave evidence before the Tribunal he appeared to be under pressure on either side. In his evidence Julio Dias does not mention names of those who took a prominent part in surrounding him. As already stated, the management was allowed to cross-examine Julio

Dias. In the cross-examination it was suggested that his first statement at Ponda Police Station i.e. Exh. C-66 was correct. Julio Dias, however, stated 'I cannot say that my first statement before the police discloses correct facts.' It is obvious that this suggestion was made because the statement Exh. C-66 mentions that the three dismissed employees threatened Julio Dias. While dealing with References Nos. 12 and 13 of 1974 I have given reasons why the statement Exh. C-66 cannot be implicitly relied upon, the same being inconsistent with the statement Exh. C-54 which is dated 25-11-1973. Reliance is also placed on statement of Julio Dias, Exh. C-53, it is dated 23-11-1973. This statement mentions that the three dismissed employees and Gajanan Chodankar took prominent part in the gherao incident. This statement further mentions that Gajanan Chodankar held out membership application form and asked Julio Dias to sign it. Threats also are mentioned in this statement. This statement also cannot be implicitly relied upon in view of his subsequent statement, Exh. C-54.

41. U.W. 1 — Constantino Furtado has given evidence, his affidavit is treated as examination-in-chief. In his evidence he denies participation in the gherao of Julio Dias. U.W. 4 — Afonsinho Fernandes and U.W. 7 — J. U. D'Souza also deny participation in the gherao of Julio Dias. Although these three employees deny participation in the incidents referred to above, I am unable to take this denial at par. They claim to be active workers of the union. Considering the probabilities it is quite likely that they did participate in these incidents. It is also probable that they may have taken a prominent part in trying to enrol employees as members of the union even though some of them were unwilling to become members.

42. Reliance is placed on the evidence of M.W. 12-E.A. Joseph. His evidence merely shows that Julio Dias was surrounded by several workmen, they were talking amongst themselves, at times shouting, this went on for about an hour. He denies that he could hear their conversation. He further says that J. U. D'Souza and Afonsinho Fernandes were amongst those who shouted abuses at Mrs. Soares after the police released Julio Dias. He has given a somewhat detailed account with regard to the obstruction to cars of Soares and Khaunte. His version, however, is not quite consistent with that of Soares himself. His version seems to be somewhat exaggerated. Even so, according to him the shouting and abuses were over by about 11-30 p.m. when the employees dispersed. According to this witness, he was sitting in the verandah in front of his quarters when the cars of Soares and Khaunte were obstructed. It is doubtful whether he could hear all the conversation. In the cross-examination he admits that he did not see Julio Dias making any attempt to go, but was prevented from doing so. He further admits that right upto 5-00 p.m. the working of the factory was absolutely normal on 22-11-1973, second shift also continued upto 1.00 a.m. Nothing abnormal was reported after the second shift. I believe these statements, they show that there was no excitement which would obstruct the normal working of the factory.

43. Reference was also made to the evidence of U.W. 5-Archibald D'Souza. This is relied upon by the union to contend that Julio Dias was asked by the employees as to why he threatened other who joined the union. In the cross-examination he admits that on 21-11-1973 at about 5-15 p.m. he saw several workers near the gate leading to carpenters' quarters. This evidence also is not very material. The statement that Julio Dias threatened others who had become members of the union also cannot be taken at par.

44. Thus the position on evidence is that there were certain incidents with which I have dealt while dealing with References Nos. 12 and 13 of 1974 which relate to the question whether lock-out was justified. I accept the management's evidence to the extent that Constantino Furtado, Afonsinho Fernandes and J. U. D'Souza took part in these incidents. I, however, find that there is no evidence to justify the management's allegation that these 3 employees terrorised fellow workers. The union was trying to enrol as many employees as possible as its members, and for this purpose there may be some enthusiastic attempts, but there is nothing even in the management's evidence to indicate that an atmosphere of terror was created. What is more important is that there is no evidence to justify the allegation in the termination notice that other employees could not work at peace within the business premises during working hours.

45. The question for consideration is whether participation in the incidents referred to above by the three employees would justify their dismissal. In my opinion, in the absence

of any positive and reliable evidence to show that the atmosphere created was such that normal work was rendered impossible by the activities attributed to these three employees, the dismissal on the ground that they participated in the incidents mentioned above cannot be justified. In the first place it is extremely doubtful whether participation in the incidents that are established can be considered to be misconduct. The behaviour of these three employees disclosed by the evidence cannot be said to be riotous behaviour, inasmuch as no violence or force was used. It can at best be said to be disorderly. Even assuming that it could be considered as misconduct, dismissal on that ground cannot be justified inasmuch as the alleged misconduct was not likely to interfere with the normal working of the management.

46. In my view, the behaviour of these three employees did not in any way interfere with the normal working of the management, nor did it create a real and serious threat to the normal working. It is, however, urged that riotous and disorderly behaviour can be considered to be misconduct, even though it takes place outside the business premises, but in the vicinity of the business premises. In support of this contention, reliance is placed on the decision of the Supreme Court in *Tata Oil Mills Co. Ltd. V/s. Its workmen*, (1964, II-L.L.J., page 113). This decision can be distinguished. In that case the Supreme Court held that on facts the behaviour of the employees concerned fell within the scope of standing order 22(viii). It is, however, important to note that the Supreme Court observed (page 116 column 2):

«In order that Standing Order 22(viii) may be attracted, the appellant should be able to show that the disorderly or riotous behaviour had some rational connection with the employment of the assailant and the victim».

On facts the Supreme Court held that the misconduct in that case related to the controversy amongst two groups of employees over the introduction of incentive bonus scheme, one group was in favour of the scheme, while the other one was opposed to it. It is thus clear that the misconduct had rational connection with the employment of persons charged with misconduct. Thus it is clear that misconduct outside or in the vicinity of business premises can be a ground for dismissal provided it has rational connection with the employment of persons concerned or rational connection with the normal working of the business. In the present case there is no evidence to indicate that the behaviour attributed to these three employees had any rational connection with their employment or with the normal working of the management. In view of this, I do not think that the conduct of these three employees as established by the evidence on record, even assuming that it amounts to misconduct, can be a ground for dismissal. Reference was also made to observations on pages 602 to 604 of «The Law of Industrial Disputes» by Malhotra, Volume 2, 1973 edition. These observations set out the above principle laid down by the Supreme Court. It is important to note that the author's observations in this respect are:

«However, in certain cases, particularly where there are no standing orders, acts of riotous and disorderly behaviour committed even beyond the working hours and outside the premises of the establishment may also constitute misconduct provided that there is a rational connection of the act with the employment of the assailant and the victim. But whether any such act will constitute misconduct justifying disciplinary action would depend upon the facts and circumstances of each case».

On the facts of the present case for reasons indicated above, I am unable to hold that the dismissal orders are justified. In view of this conclusion reinstatement must follow. I, therefore, direct the management of both the concerns to reinstate the three employees — Afonsinho Fernandes, Constantino Furtado and Joseph U. D'Souza — immediately. Award accordingly. The question of back wages will have to be considered separately after hearing the parties.

47. The question referred to the Tribunal for adjudication in References (IT-GDD) Nos. 14 and 15 of 1974 is as follows:

«Whether the workmen of M/s. Fabril Gasosa, Borim; Ponda (Goa) and M/s. Agencia E. Sequeira, Borim Establishment, Borim, Ponda (Goa), were on strike or were refused employment by the Management with effect from 11-12-1973?

To what relief, if any, the concerned workmen are entitled?»

48. In the statement of claim the allegations regarding the employees' attempts to form a union and the management's

attempts to crush the same are repeated. The incidents upto 11th December 1973 are also repeated. It is further alleged that the management did not communicate to the workmen that it had lifted the lock-out on 11th December 1973 as alleged by it, nor was the union informed about it. According to the union, the employees reported for duty throughout, but the management prevented them from resuming work. The employees reported for duty on 28th December 1973 and thereafter also, the union being informed officially about the lifting of lock-out on 28th December 1973. The management's allegation that the employees failed to report for duty in spite of the lifting of the lock-out is denied. According to the union, the management physically barred or prevented the employees from entering into the factory and resuming duty. On these allegations the employees claim:

- (i) That they should be allowed to resume duty with continuity of service.
- (ii) They should be paid full wages from 11th December 1973 onwards.
- (iii) They should also be paid a reasonable amount as damages for mental agony and loss suffered by them and
- (iv) Costs.

49. By its written statement the management alleges that the union as well as the employees know that the lock-out was lifted on 11th December 1973 immediately after notice to that effect was put up. In support of this allegation the management relies on reports appearing in newspapers. According to the management, the employees have been on strike since 11th December 1973, the strike is unjustified. On 29th December 1973 the employees who were not under suspension for misconduct were given an opportunity to resume duty, but this opportunity was spurned by the employees. On 21st December 1973 the employees on the other hand blocked the gate, defied authority, and had to be forcibly removed by the police. Correspondence is referred to. It is alleged that the employees physically blocked access of men and material to the factory and used threats and coercion to stop movement of men and material. There was an attack on the factory during the night between 11th and 12th January 1974 and in the evening of 18th January 1974. It is further alleged that the President of the union Gerald Pereira started the attack on 18th January 1974. According to the management, the employees not only refused to resume duty, but indulged in violence from time to time. Incidents of violence are mentioned in the written statement. It is pointed out that the employees entered the factory on 28th December 1973 only to collect their wages for the pre-lock-out period, and not with a view to resume work as alleged by the union. It is pointed out that Mr. Gerald Pereira, President of the union, went to the length of threatening forcibly entry into the factory by all the employees including the dismissed employees. On these allegations it is prayed that it should be declared that the employees were on strike from 11th December 1973 onwards, that the strike was unjustified, hence the employees who did not report for duty are not entitled to any relief.

50. On behalf of the union it is urged that although notice lifting the lock-out dated 11th December 1973, Exhs. C-30 and C-30-A was put up, in effect the lock-out was not lifted and the employees were not allowed to resume duty, although they were willing to do so. It is pointed out that although the said notice was put up, a copy was not sent to the union, workers were not informed individually about the lifting of the lock-out, and no announcement was made in the Press. In substance, the contention of the union is that during the lock-out period and even thereafter the employees came to the gate of the factory, but they were not allowed to resume duty. It is further pointed out the management was bent upon harassing the employees, hence they did not pay even the earned wages for the period prior to the lock-out. Gerald Pereira, President of the union, in his evidence says that on 13-12-1973 he was informed by the workers that notice lifting lock-out was put up. The workers further told him that the watchmen and police at the gate did not allow them to go even near the gate, much less did they allow them to report for duty.

51. The first question for consideration is when did the union and the employees come to know about the lifting of the lock-out. In the first place it is common ground that at least some employees used to come to the gate of the factory every day and waited there for some time. It is also not disputed that the notice lifting the lock-out was put up on the watchman's cabin on 11-12-1973. It is alleged by the union

that the employees were not allowed even to read the notices put up on the watchman's cabin, watchman and the police prevented them from doing so. I am unable to accept this allegation as correct. Considering the probabilities, it is unlikely that the watchman and the police would not allow the employees to read the notices put up by the management. Moreover it is important to note that the union does not appear to have made any serious grievance in this respect in the correspondence with the management.

52. On behalf of the management it is pointed out that the Press statements issued by the union itself indicate that the union and the employees came to know about the lifting of the lock-out almost immediately. Reference was made to Ex. C-89 report in Navhind Times dated 13-12-1973. The report appears to be dated 12-12-1973. The report refers to lifting of lock-out on 11-12-1973. It further mentions: «The workers, however, after holding a mass meeting at the factory gate yesterday evening, have refused to join duties demanding the payment of 18 days' wages for the lock-out period and reinstatement of the victimised three workers». Exh. C-72 is a similar report published in O Heraldo dated 14-12-1973. In his evidence Gerald Pereira, President of the union, has given evasive replies with regard to these two reports. He is unable to say whether Exh. C-69 reproduces Press statement issued by the union. He went to the length of stating that according to him no meeting took place at the factory gate on 11-12-1973. He, however, modified the statement by saying, «In any case, I did not get any information of such a meeting». He has further stated that because of an accident suffered by him he was unable to move out from 9-12-1973 to 21-12-1973. With regard to the report in O Heraldo, Exh. C-72, he says: «I think such a Press statement must have been issued by the office of our union, but I have not signed this Press statement, our union seems to have issued it in my name». I have carefully considered Gerald Pereira's evidence in this respect. In my view, there seems to be no doubt that the above two reports are based on statements issued by the union. If it was not so, one would expect an official denial by the union to be published, which is not done by the union. These reports, therefore, make it clear that at least some of the employees came to know that lock-out was lifted almost immediately on 11-12-1973. It is not disputed that ever since the lock-out was declared, the employees were in constant touch with the union and giving information to the union about the developments from day to day. In view of this, it does appear to me that the union also must have come to know about the lifting of the lock-out on 11-12-1973. I am, therefore, unable to accept the union's contention that the employees did not come to know the lifting of the lock-out on 11-12-1973, but they came to know it later on. The abovementioned reports further indicate that even though the employees knew that lock-out was lifted, they adopted the attitude of not resuming duty until the wages for the lock-out period were paid and the three dismissed employees were reinstated. Reference was also made to the union's letter dated 12-12-1973, Exh. C-12. It is urged by the management that although the union knew about the lifting of the lock-out, there is no reference to it in this letter, Exh. C-12. Gerald Pereira in his evidence says that he came to know about lifting of lock-out only on 13-12-1973, hence there is no reference to the lifting of lock-out in Exh. C-12. In view of this answer, Gerald Pereira was confronted with the union's letter Exh. C-11 which is dated 20-12-1973. Gerald Pereira has no explanation to offer as to why he did not mention in this letter that the workers though willing to resume duty were not allowed to resume duty, they were obstructed by the police and the watchman. The union's letter dated 20-12-1973, Exh. C-11, is in reply to management's letter dated 14-12-1973, Exh. C-10, management's letter Exh. C-10 mentions that the management was willing to pay earned wages upto the period of lock-out within a day or two of resumption of work by the employees. It is important to note that in spite of this the union did not communicate to the management that the police and the watchmen did not allow the employees to resume duty. Reference was also made to union's letter dated 24th December 1973, Exh. C-6. It is urged by the management that para 6 of this letter makes it absolutely clear that the employees were not willing to resume work knowing full well that the lock-out was already lifted. The relevant portion of that letter reads thus: 'It is under these conditions that your organisation were compelled to lift lock-out unilaterally and unconditionally. But to expect the workers to just walk inside the factory and resume work is to fool oneself. The workers are no fools and they cannot be misled by you or by anybody'. The management rightly relies on this to indicate the attitude of the employees under the guidance of the union. Gerald Pereira in his evidence had to admit that the letter Exh. C-6 contains no

suggestion that the workers were prevented from resuming duty, although they were willing to do so. It is important to note that even Gerald Pereira in his evidence admits that at this time i.e. on 24-12-1973 the workers considered it to be foolish to resume duty in spite of the alleged lifting of lock-out. He further says. «I say the workers considered resuming work to be foolish during the period from 14th December 1973, to 26 or 27th December 1973, because three dismissed employees were not reinstated, and wages for the period prior to the lock-out were not paid». In view of this admission it is unnecessary to discuss other evidence on this point. This admission of Gerald Pereira, the President of the union, clearly indicates that in spite of the knowledge of lifting of lock-out the employees were not willing to resume work at least till 27-12-1973. During arguments Mr. Pereira stated that from 11th to 27th December 1973 there was a state of indecision on the part of the union. I need not comment on the wisdom and propriety of this indecision. In view of the dispute referred to in these two references, the material point is whether the employees were refused employment since 11-12-1973, or whether they refused to resume duty. In view of what is stated above, it is absolutely clear that although the union and the employees came to know about lifting of the lock-out almost immediately, in any case on 13-12-1973 on Gerald Pereira's admission, they were unwilling to resume duty upto 27-12-1973 (inclusive).

52. During arguments Mr. Pereira stated that whatever may be the position prior to 28-12-1973, the employees were quite willing to resume duty in any case from 28-12-1973. In this respect reliance is placed on two letters, Exhs. U-12 and U-12A both dated 29-12-1973. According to the union, these letters were sent under certificate of posting which is dated 31-12-1973. In the first place when the union admittedly did carry on correspondence with the management even after the lock-out was lifted, one fails to understand why these letters were not addressed by the union, but were signed by several employees, and were not delivered by hand-delivery on obtaining acknowledgement, nor why they were not sent by registered post. Moreover these letters make interesting reading. First para of these two letters reads as if Gerald Pereira, President of the union, came to know about the lifting of the lock-out dated 11-12-1973 on 23-12-1973. The letters further repeat the allegation that the employees go to attend to duty every day, but no one bothers to take them inside. The letters further mention: «Naturally the management cannot expect us to get inside the work-place automatically. There are so many issues involved. What about the wages for the period of the lock-out? ... Your officers are passing false rumours that we do not want to join duty. This is false. We are always ready to join our duty at any moment. But it is for the company to open the gates and take us in, so that all the issues including the demands raised are solved». It is important to note that even these letters, Exhs. U-12 and U-12A, do not specifically allege that the watchmen and the police prevented them from entering the factory and resuming duty.

53. The management denies the receipt of these letters. The evidence led by the union does show that the workers were asked to sign these letters. Gerald Pereira in his evidence says that he came to know about the lifting of the lock-out officially on 28-12-1973 at the meeting in Labour Commissioner's office. In view of this official intimation the letters Exhs. U-12 and U-12A were prepared. He instructed these letters to be sent under certificate of posting, there was no reply from the management, nor were these letters received back from the Post Office.

54. The evidence on record does disclose that the management has replied to almost all the letters addressed by the union. It is urged by the union that in view of the certificate of posting there is a presumption that the management must have received these letters.

55. As against this, it is urged by the management that there is no reason whatever why the union should not have officially informed the management that although the employees reported for duty, they were prevented from entering the factory by the police and the watchmen, hence they could not resume duty. There is considerable force in this contention. It is difficult to understand why the union did not write so officially. Assuming that these letters were received by the management, and, it did not reply to these letters this circumstance by itself would not be enough to indicate the willingness of the workers to resume duty. In the present case there is ample other evidence, clear and reliable, to show

that the attitude adopted by the employees, as guided by the union, was that they will not resume work unless wages for the lock-out period were paid and the three dismissed employees were reinstated. It is pointed out above that on Gerald Pereira's own admission the workers were not willing to resume duty upto 28-12-1973. It is urged by the management that the letters, Exhs. U-12 and U-12A themselves do not indicate any change of attitude, nor do they indicate any genuine intention to act upon them. A number of documents are relied upon to show that the union and the employees did not intend to act upon what was stated in the letters, Exhs. U-12 and U-12A.

56. I may mention here that the earned wages for the period prior to the lock-out were paid on 28th December 1973. According to the management, these wages could not be paid earlier, as it could not make payments outside the factory, while the workers refused to enter the factory and resume work. Any way that grievance disappeared since 28-12-1973 when by agreement payment was made inside the factory.

57. On behalf of the union reliance was placed on the minutes of the conciliation proceedings held on 28-12-1973, Exh. C-43. This is relied upon by the union to contend that for a negotiated settlement the union withdrew the dispute before the Labour Commissioner, yet the management did not co-operate and arrive at a negotiated settlement. According to the management, incitement to workers by the union was still going on and negotiations could be started only if normalcy was restored. It is important to note that these minutes, Exh. C-43, show that Gerald Pereira stated before the Labour Commissioner that the workers were not aware that the lock-out was lifted as the management did not inform the employees individually. He requested the Labour Commissioner to ask the management to lift the lock-out. As pointed out above, although Gerald Pereira knew at least since 13-12-1973 that the lock-out was lifted, he adopted the attitude indicated by the above statements. He further stated before the Labour Commissioner that it was for the management to restore normalcy, and he was prepared to discuss all the issues with the management even at that time. It is true that the union withdrew the dispute which was in conciliation and asked for a negotiated settlement. The management refused to start negotiations unless incitement of workers to violence was stopped. The evidence on record shows that the workers did indulge in threats, or obstructive tactics, violence and I do not think that the management was unjustified in refusing to negotiate virtually under the threat of violence.

58. On behalf of the management it is urged that ever since the lock-out was declared, the management was anxious to lift it up as early as possible, but it did not receive co-operation from the union and the employees. Admittedly Gerald Pereira met E. Sequeira on 26-11-1973, they had a talk, but the talks did not succeed as immediate reinstatement of three dismissed employees was insisted upon. Gerald Pereira finally agreed to have the three employees suspended on reinstatement in order to enable the management to hold inquiries. This was not acceptable to the management. This is borne out by the management's letter dated 29-11-1973, Exh. C-14. It is a reply to union's letter dated 27-11-1973, Ex. C-15. Reference was made to Exh. C-25, management's notice dated 29-11-1973 in which threats of employees to officers are alleged and appeal to the employees to restore peace was made. According to the management this notice was pasted on the watchman's cabin at the gate. Exh. C-26 is notice dated 4th December 1973 which states that there were no untoward incidents on 30th November and 1st December, 2nd December was Sunday and 3rd December was a holiday, the management desired to lift the lock-out on 4-12-1973, but unfortunately at the meeting of the employees held on 2-12-1973 the employees were told repeatedly that even if lock-out is lifted, they should refuse to resume work unless the three dismissed employees were reinstated. This meeting is admitted by U.W.I.-Constantino Furtado in his evidence. Exh. C-27 is management's notice dated 5-12-1973 in which it is mentioned that security man-Shaikh was threatened, driver of Nityanand Transport who had come to the factory was also threatened, appeal to restore peace was repeated. It is admitted that on 6-12-1973 M.W.11-E. Sequeira had a talk with the workmen. Exhs. C-28 and C-29 are similar notices. According to the management, assurance of normalcy was conveyed by the employees through Douglas Gonsalves, there were no untoward incidents on 8th, 9th and 10th December, hence notice lifting lock-out was put up on 11th December. The management has relied on all this to contend that ever since declaration of lock-out the union and the employees instead of restoring normalcy indulged in pressure tactics.

59. Reference is made to Gerald Pereira's evidence. In para 16 of his evidence he admits that when he met E. Sequeira on 26-11-1973 E. Sequeira said that lock-out and dismissal orders were separate disputes, and they should be dealt with separately. E. Sequeira was prepared to lift the lock-out as soon as the atmosphere calmed and tension disappeared, and for this purpose he sought union's co-operation. Gerald Pereira further admits that E. Sequeira agreed to have the dispute regarding the dismissal of three employees decided by arbitration. These admissions indicate that the management wanted to deal with the two disputes, viz. dispute relating to lock-out and dispute relating to dismissal of three employees, separately, but the union was not prepared to separate these disputes, and insisted that the three dismissed employees should be reinstated, they may be suspended, charge-sheets should be served on them and inquiries should be held. Gerald Pereira further admits that E. Sequeira asked him to think over the proposal of arbitration and let him know. Gerald Pereira says that he conveyed his views only by his letters. Gerald Pereira, however, admits that in the union's letter, Exh. C-15 which is dated 27-11-1973, Gerald Pereira did not convey his reaction to E. Sequeira's proposal for arbitration. It is urged by the management that in view of this attitude adopted by the union and the threats and coercion indulged into by the employees, the management withdrew its offer for arbitration by its letter dated 6th December 1973, Exh. C-13. According to the management, even after 6th December 1973 the pressure tactics of the union and employees continued. M.W.3-Khaunte in para 5 of his evidence says that from 12th December 1973 onwards the workers standing outside the gate started insulting and showering abuses on incoming and out-going officers. From 15-12-1973 the workers started following the officers, showering abuses on them, when they proceeded to their quarters. In view of this the notice Exh. C-31 dated 20-12-1973 was put up. It is important to note that this was the attitude of the employees even after coming to know notice lifting lock-out was put up. Reference is also made to the report Exh. C-93 appearing in Navhind Times dated 26th December 1973 relating to the meeting held on 27-12-1973. The report shows that according to the union the employees were on indefinite strike and Gerald Pereira, the President of the union, called upon the management to reinstate the three dismissed employees forthwith and pay wages for the lock-out period. This is strongly relied upon by the management to contend that the statements in the two letters, Exhs. U-12 and U-12A dated 29-12-1973 referred to above were not intended to be acted upon. There is considerable force in this contention. With regard to this report-Exh. C-93 Gerald Pereira in his evidence says that it is not a Press statement issued by the union, so far as he remembers. I am unable to accept Gerald Pereira's evidence that the report does not indicate a statement issued by the union in view of his addition 'so far as I remember'. He agreed to produce press statement, if available, but it is not produced. It is further pointed out by the management that in the correspondence subsequent to 29-12-1973, the date of Exhs. U-12 and U-12A, no grievance is made by the union that the management failed to reply to the letters Exhs. U-12 and U-12A. In my view, there is considerable force in the management's contention that the statement in Exhs. U-12 and U-12A that the employees were willing to resume duty was never intended to be acted upon. On the other hand the evidence unmistakably indicates that because of the pressure tactics such as following the officers, showering abuses on them and their families, the officers found it necessary to remove their families elsewhere for safety on 22-12-1973. On 29-12-1973 the officers' quarters were stoned from the employees' quarters, hence the officers themselves left their quarters and started residing inside the factory itself. The evidence of Soares and Khaunte is to this effect. The fact that the officers' families were removed elsewhere on 22nd December 1973 and officers themselves shifted to the factory on 29-12-1973 is not disputed, although the reasons for the same are denied by the union. I believe the evidence of Soares and Khaunte in this respect.

60. The management contends that those employees who were willing to work after the lock-out was lifted did work. In this respect reliance is placed on the evidence of Soares. In para 7 of his evidence he says on 11th only one employee reported for duty, on 12th that employee and one more reported, on 13th the previous two and one more reported, but one who reported on 13th for the first time did not report thereafter. There is no cross-examination to show that these statements are wrong or inaccurate. This evidence of Soares shows that at least two employees attended since the lifting of the lock-out. This statement of Soares is borne out by the attendance cards, Exhs. C-88 and C-88A.

61. As pointed out above, by notice, Exh. C-31, dated 20-12-1973 the workers were called upon to resume duty. Instead of responding to this appeal, on 21-12-1973 the employees blocked the entrance by tying a flag across the two flaps of the gate, Soares got it removed, but the employees blocked the entrance again by putting a flag amidst stones in front of the gate. At about 12.00 noon the same day a truck was brought to the factory as a damaged truck was to be towed. The truck could not enter the factory gate, as workers squatted on the way. Ultimately the police had to remove the employees from the gate. The incident is not denied by the union, although there is difference in the version of the management and that of the union. I do not propose to discuss the evidence with regard to this incident in detail, as Gerald Pereira's own admission in effect is that the employees were unwilling to resume work till 27-12-1973.

62. It is already pointed out that the report in Navhind Times, Exh. C-93, shows that on 27-12-1973 a declaration was made at the employees' meeting that they were on an indefinite strike. In spite of this declaration the letters Exhs. U-12 and U-12A, mentioned above were sent under certificate of posting. The evidence of Soares and Khaunte, which I believe, shows that on 29-12-1973, the date of the letters Exhs. U-12 and U-12A, officers' quarters were stoned. This does support the management's contention that the statements in the letters, Exhs. U-12 and U-12A, were not intended to be acted upon.

63. According to the management, on 3-1-1974 Coca Cola trucks from Navelim were to go to Panaji via Borim factory, the workers collected in groups outside the factory, they wanted to assault the trucks, but because of the presence of police actual assault did not take place. Three workers were found to be armed with soda water bottles and kerosene soaked swabs. Both Soares and Khaunte have given evidence to this effect. I do not find anything in the cross-examination to doubt the correctness of the evidence of Soares and Khaunte in this respect.

64. The management started enrolling new employees since 3-1-1974, actual production started from 6-1-1974. This seems to have disturbed the old employees. According to the management, since 6th January 1974 the workers started pelting stones at the vehicles coming in and going out. New employees were threatened with assault if they dared to stir out, threats to officers also continued. On 7-1-1974 watchman Khadaksingh was assaulted. Considering the probabilities, it does appear to me that the old employees must have indulged in such activities with a view to prevent re-starting of the factory with the help of new employees. The evidence of Soares and Khaunte in this respect seems to be reliable. The allegation of assault on watchman Khadaksingh is supported by his complaint to the police dated 8-1-1974, Exh. C-61, and the medical certificate, Exh. C-62.

65. M.W.11—Erasmio Sequeira in his evidence says that on 4-1-1974 he received information that an attack on the factory was planned. He, therefore, gave intimation to the police. He issued instructions to Soares and Khaunte, Managers of the two concerns, to be careful in view of the information received by him. M.W.3-Khaunte in his evidence says that on 11-1-1974 in the afternoon he detected that the reflector was missing. This was reported by the electrician. When the electrician tried to replace the reflector, he was stoned by the workers. At about 6.30 p.m. it was discovered that telephone No. 18 was cut off. At about 7.30 p.m. the front side lights were off. According to Khaunte, precautions were taken as per Erasmio Sequeira's instructions, someone remained awake at night. During the night between 11th and 12th January 1974 Khaunte kept awake. In his evidence he says that at about 2.00 a.m. on 12th he and Noronha wanted to go to the factory and have a general round. When they reached the factory, they heard screaming and noise of stick blows which came from workshop side. Khaunte was near the power house. When he heard the screaming, he rushed to the workshop, on the way he saw about 25/30 persons assaulting workers who were sleeping. Due to assault they started running helter skelter. Within a few seconds while he was observing all this, he was surrounded by 8/9 persons who assaulted him with sticks. Khaunte received serious injuries and he had to remain under medical treatment for a considerable period.

66. The union does not dispute that unfortunate incidents did take place during the night between 11th and 12th January 1974. According to the union, on 11th January when new employees returned after having their meals at about 11.00 p.m., they abused the workmen (old) outside the gate, removed their flags and threw stones at them, which resul-

ted in a skirmish partly inside and partly outside the gate, Khaunte intervened, hence he sustained the injuries. This is the version put to Khaunte during cross-examination. Khaunte denies it. Although so many employees are examined, none of them admits his presence during the night between 11th and 12th January 1974. During arguments Mr. Pereira stated this is so, because criminal cases against certain employees are pending. Apart from details, there is no doubt whatever that there was assault as deposed to by Khaunte at about 2.00 a.m., in which several persons including Khaunte were injured. The union's version is not supported by any evidence. Moreover even on probabilities that version does not appear to be correct. The evidence of Khaunte and the police officers, Dy. S. P. Jog—M.W.6, and M.W.9—S. I. Khatib, shows that the incident did take place at about 1.45/2 a.m., and not at 11.00 p.m. or midnight, as suggested by the union. The evidence does disclose that the old employees did not allow the new employees to stir out. The evidence shows that even food arrangements were made within the factory for the new employees. In view of this, the above version of the union cannot be accepted. The only question for consideration is whether this assault was by old employees who refused to resume duty in spite of the lifting of lock-out, or by some outsiders. In the first place outsiders would not be interested in such an assault. Moreover in view of the union's version in this respect it is clear that old employees at the gate at least were concerned in this incident. During arguments it was not seriously argued that this attack could be by outsiders. Considering the probabilities, I hold that the old employees carried out this attack. The very magnitude of the attack, in which several persons were injured, shows that it must be a pre-planned attack. This incident clearly shows that not only the employees failed to resume duty even after lock-out was lifted, but they indulged in violence as indicated by the above incident to pressurise the management. I find no substance in the employees' allegation that although they were willing to resume duty, the police and watchmen obstructed them.

67. The next unfortunate incident took place in the evening on 18-1-1974. According to the management, this was an attack on the factory by the old employees, it was a pre-planned attack. In support of this contention, reliance is placed on Exh. C-98 which is a report in Gomantak dated 16-1-1974. This report mentions that the squatting in front of the factory by the employees, who were on strike, was withdrawn at 10.30 a.m., on 15th, Gerald Pereira advised the employees to observe complete peace till 18-1-1974 on the ground that in the meantime negotiations were to go on with the management in the presence of Government officers. The appeal was to be peaceful till 18th. This is relied upon to contend that the attack dated 18-1-1974 was a pre-planned attack. Gerald Pereira in his evidence (para 25) denies to have issued any such statement. He says the statement in the report, Exh. C-98, is incorrect. No such denial has ever appeared in press.

68. The unfortunate incident that took place on 18-1-1974 has embittered the relations further. According to the management, this was a pre-planned attack on the factory by the old employees who were on strike, while according to the union this was a repressive act of the management going to the extent of firing gun-shots with a view to crush the union. The management has alleged that the stone-throwing at the factory was so heavy that all the glasses of the factory on the front side though covered by tarpulin were smashed. Due to heavy stone-throwing the tarpulin fell down and the glasses broke. Gerald Pereira, President of the union, was admittedly present throughout this incident. In his evidence he admits that the tarpulin did fall down due stone-throwing and the glasses broke. It is, however, the union's contention that the stone-throwing from the factory started first, it was followed by gun-shots fired from the factory at about the time the morcha allegedly organised by the union came near the factory, the morcha consisted of about 300 persons, when these persons in the morcha found that there was firing from the factory, they got infuriated and stoned the factory in retaliation. Thus the heavy stone-throwing at the factory is admitted, but the only controversy is with regard to the question whether the heavy stone-throwing was by way of retaliation as alleged by the union, or whether it was a pre-planned attack as alleged by the management.

69. Considerable evidence is led with regard to the incident dated 18-1-1974. On behalf of the union most important evidence is that of Gerald Pereira, President of the union, who was present during the incident. According to Gerald Pereira, a meeting at the factory gate was arranged on

18-1-1974. This is not disputed even by the management. Pereira further says that a morcha (procession) was organised, that morcha was to arrive at the place of meeting, and then the meeting was to take place. Although the meeting was announced in papers, the morcha was not announced, Pereira admits this. In his evidence he says that oral intimation of the morcha was given not only to the workers concerned in this dispute, but also to other workers in the surrounding area. It is difficult to understand why this morcha also was not announced, when the meeting was announced, and a special circular inviting some prominent persons to attend the meeting was also issued, particularly when the morcha was to go the place of meeting and then the meeting was to take place. According to the management, no such morcha was organised. I find it difficult to accept on probabilities the union's version that morcha was organized, I have no doubt that if a morcha was organized, it would have been announced just as the meeting was announced. I shall presently point out that the evidence relating to this alleged morcha is not quite consistent. It is obvious that the evidence in this respect of Gerald Pereira, President of the union, and other employees is interested, hence I am unable to accept it in the absence of independent evidence by way of corroboration.

70. Union has examined U.W.2-Anastasio Almeida. His evidence shows that a committee named Action Committee was formed within 2/3 days after the incident dated 18-1-1974, he claims to be a member of this Action Committee. Exh.U-11 is the circular letter inviting certain persons to attend the meeting organized on 18-1-1974, witness Almeida is one of them. In his evidence he says that on 18-1-1974 he went to Borim near the factory at about 5.20 p.m. with a view to attend the meeting. He, however, says that before going to attend the meeting he entered the restaurant nearby to have a wash, while he was having a wash the girl who was attending to the restaurant started closing the door, Almeida asked her why she was closing the door, she said some disturbance had started. Almeida, however, asked her to keep the door open, assuring her that her restaurant was safe. This is his evidence in examination-in-chief. The evidence on record shows that the trouble was localised near the factory gate until G.R.P. arrived at about 5.40/5.45 p.m. and made a lathi-charge to disperse the crowd that was throwing stones at the factory. The necessity to close the restaurant would arise only when people would start running helter skelter because of the lathi-charge or because of the firing. If Almeida's evidence in the examination-in-chief is correct, he seems to have gone there late after the trouble was almost over. Almeida then proceeds to say that there were some workers in front of the restaurant, he asked them what had happened, they told him that Roque Santan Fernandes was taking black legs into the factory, and Jagdishrao was firing from inside. If firing had already taken place, Almeida, if he was present there, would have surely heard the gun-shot reports. In his examination-in-chief, however, he does not start by saying that he heard gun-shot reports before he was supplied with the above information. This also supports the inference what Almeida, if at all he was present, must have come there late. Almeida further says that some workers came running there, saying "They have come", meaning thereby procession had come. Almeida claims to be a politician, he says he exclaimed "Shots are being fired, stones are being flown, yet the police are taking no action. What is all this going on?" It is important to note that although Almeida considers himself to be an important person, he did not go ahead to ask the police why they did not take any action, his evidence shows that he remained at the restaurant. The sequence in his evidence shows that by 5.50 p.m. police van arrived, by that time things were cooling down, and then Almeida claims to have proceeded to the place of the meeting. Almeida says that it is at this time that the lathi-charge took place, but I do not believe this statement for reasons stated above. In his cross-examination he admits that he contested general elections three times, and each time his opponent-candidate of United Goans Party won the election. During the last two elections Roque Santan Fernandes was successful. Admittedly the Sequeiras-the proprietors belong to United Goans Party. Roque Santan Fernandes also belongs to that party. It does appear that it is quite probable, as contended by the management, that this witness has some animus against Sequeiras and Roque Santan Fernandes who belong to the United Goans Party. It is also important to note that at about 5.30/5.35 p.m. on 18-1-1974 car of Roque Santan Fernandes arrived near the factory gate and the trouble started, that is how Roque Santan Fernandes comes

into the picture with regard to this incident. In the cross-examination Almeida admits that immediately after getting down from the bus he crossed the road and entered the restaurant to have wash and tea. He further admits that a person sitting in the restaurant cannot see what is happening at the factory gate. He says: 'I saw some stone throwing, it was from the road and it broke the glasses of the factory. I did not see any persons throwing stones from the factory, all that I saw was stones falling on the road'. In view of his admission that a man from the restaurant cannot see what is happening near the factory gate, it is extremely doubtful whether Almeida saw what actually happened near the factory. He admits that he did not try to contact the police, although Dy. S. P. Jog was there personally. He admits that the Action Committee did not take any eye-witnesses to the police. Almeida seems to have realised his mistake while giving evidence in the examination-in-chief and in replies to the Tribunal he stated that he heard gun-shots at about 5.30 p.m. at the entrance of the restaurant. It is a belated statement and I am unable to believe it. If he had heard the gun-shots, I have no doubt that he would not fail to refer to them in his examination-in-chief. Almeida though an outsider seems to have, as stated above, some animus against Sequeiras, the proprietors. Moreover as pointed out above I am extremely doubtful whether he was present; even assuming that he was present, he seems to have taken shelter in the restaurant, and I do not think that he has observed what happened at the factory gate. His evidence, therefore, would not be useful by way of corroboration to the union's version.

71. In his evidence Gerald Pereira, President of the union, says that on 18-1-1974 he went to the factory at about 5.00 p.m. and instructed Constantino Furtado to send the workers to join the procession. While coming to the factory in a taxi he had seen the procession starting from Borim Bridge at about 5.05 p.m. At about 5.25 p.m. he went towards the factory gate. At that time, according to Pereira, 7/8 workmen including two women were standing at random near the gate. He was standing just across the road in front of the factory gate talking with 4/5 school-boys who were there. While he was thus talking a standard car came from Margao side, Roque Santan Fernandes was on the front seat of the car to the left of the driver, there was one more person on the front seat to the left of Roque Santan Fernandes. When the car proceeded towards the factory gate, it dashed against some persons including one woman. Pereira says that he saw Roque Santan Fernandes taking out a revolver and aiming the same, he cannot say at whom it was aimed, it may be at 2/3 workers who were on that side i. e. Ponda side. A person who was standing nearby dealt a first blow on the left front door glass of the car, smashed it and put his hand inside to snatch the revolver. During the scuffle the revolver fell down in the car. At this stage, Pereira says, he came near the car and stood on the side of the driver, but on the road. One of the persons on the rear seat of the car took up an iron bar and put it outside-right side, one of the persons outside snatched that iron bar. By this time some persons who were inside the factory came ahead in front and started throwing stones, broken bottles, etc. The car was slightly reversed over a distance of a foot or two and sped away towards Ponda side. While the car was thus speeding away, the man who had snatched the iron bar struck it on the rear glass of the car with the result that the glass broke. When the car was reversed and turned to the left, it dashed 2/3 persons who fell down rolling in the ditch. According to Pereira, stones were thrown from the factory at the persons near the car, but they fell on the car. The question for consideration is whether the version is correct. Admittedly workers were given instructions not to allow missiles or black legs inside the factory. Pereira in his evidence admits that the factory gate was closed and the car stood in front of the factory gate. In view of the above instructions, it is but natural that the workers at the gate would not allow the cars to go inside. According to the union, stones were thrown from the factory on the workers who were near the car. The evidence on record shows that the workers had obstructed vehicles and cars even prior to 18-1-1974. It is, therefore, unlikely that stones will be thrown from the factory merely because the car was obstructed. According to Pereira, there were only 7/8 employees at the gate. It is not union's version that the workers assaulted the car immediately after it came, so that stoning from the factory would become likely. In view of the past experience it is not likely that the employers would not expect obstruction to the car at the gate, although they may expect to take the car inside with the help of the police. Admittedly the car was there only for three minutes, it sped away

within 3 minutes, obviously because the inmates of the car apprehended danger at the hands of the workers who were there. Considering the probabilities, I am unable to accept Pereira's statement that stones from the factory were thrown at this stage. It is more likely that the workers at the gate surrounded the car, and the inmates of the car apprehending danger took away the car within 3/4 minutes. It is important to note that Constantino Furtado in his evidence does not refer to a revolver being taken out by Roque Santana Fernandes, nor does he refer to the iron bar, as deposed to by Pereira. I have no doubt that if Pereira's version regarding revolver in the hand of Roque Saptan Fernandes and the iron bar in the hand of a person on the rear seat was correct, Constantino Furtado, who is the Secretary of the Factory Committee, would not fail to mention it in his evidence. I am, therefore, unable to accept that version in Pereira's evidence. Considering the probabilities, I am unable to accept the union's version that stone-throwing from the factory started while the car of Roque Santan Fernandes was at the factory gate.

72. Pereira in his evidence further says that within 1/2 minutes after the car left, report of a gun-shot was heard; there was a commotion and persons started running here and there, within 2/3 minutes there was report of another gun-shot, Pereira learnt from Constantino Furtado that Jagdishrao was firing, by that time a worker approached Pereira with a pellet injury, and Pereira asked persons there to go away in view of the firing that was taking place. Pereira himself started going towards the scheduled place of the meeting. At that time he heard the noise indicating that the procession was coming. Finding that the procession was coming, he stopped at a distance of about 10 metres from the road and turned his face towards the factory, by that time the procession had come upto the factory gate, just at that time there was one more gun-shot which Pereira felt was in his direction, someone pushed him aside, hence he did not get injured. At this time he saw that it was Jagdishrao who was firing. According to Pereira, heavy stone-throwing at the factory started at this time, and not before. The version of the union is that by the time the procession came near the factory gate, the persons in the procession came to know that there was firing from the factory, hence the persons in the procession got enraged and indulged in stone throwing at the factory. The suggestion is that it was because of the firing that the factory was stoned at even by outsiders.

73. The evidence unmistakably shows that ever since lock-out was declared on 23rd November 1973, workers used to come to the factory gate and remain there. Pereira's evidence shows that they remained there even till 11.00 a.m. In view of this, it is unlikely that there would be stone-throwing from the factory merely because some workers collected at the factory gate. According to the management, at about 5.30 p.m. on 18-1-1974 there were about 200/300 workers, including workers from other factories, near the factory gate, they started heavy stone-throwing at the factory, some workers entered into the compound of the factory, set the grass in the compound on fire, set fire to an old truck lying there, and also set fire to a portion of the officers' quarters. According to the management, it was in these circumstances that gun-shots were fired from the factory. Thus the important question for consideration is whether the admitted heavy-stone-throwing at the factory was because gun-shots were fired from the factory, or gun-shots were fired because there was grave anger to the factory and persons therein because of stone-throwing and setting fire as mentioned above. I shall discuss the evidence led on this point.

74. Union has examined Constantino Furtado, Secretary of the Factory Committee. In his evidence he says that on 18-1-1974 he went to the factory at about 2.30 p.m. and was there upto 9.30 p.m. According to him there were only 8/9 workmen near the factory gate at about 5.00 p.m. He told the workmen coming there to go and join the procession. At about 5.30 p.m. a car came from Margao side towards the main gate of the factory. The car dashed some of the workers near the gate. Suddenly he noticed stones being thrown from the factory, when some students who were on the road started throwing stones. He saw Roque Fernandes by the side of the driver in the car. As soon as the stones began to fall, the car slipped away towards Ponda. He heard reports of gun-shots, in all 4/5. He saw one worker with pellet injury, he was advised to go to Dy. S. P. Jog. Constantino Furtado also says that one shot was fired in his direction. According to him one gun-shot was fired before the procession came there, thereafter there was stone-throwing on both sides.

While this was going on, G. R. P. force arrived and indulged in lathi-charge. He further says that at about 6-10 p.m. because of the firing he took Gerald Pereira and his family to a nearby house, where he (Gerald Pereira) was till 9-30 p.m. At 9-30 p.m. Gerald Pereira and Constantino Furtado went home. It is important to note that Constantino Furtado admits that no one was injured because of stone-throwing. He admits that there were 7/9 persons near the gate, but he does not know whether any one instructed them to be there. According to him procession arrived at about 5-40 p.m., but the students had already started throwing stones before that since the time the car came there. It is important to note that he admits that no gunshot was fired while the car of Roque Santan Fernandes was at the gate. According to him when the car came and dashed against 2 persons, stones started coming from the factory. I am unable to accept this statement for the reasons already stated above. It is also important to note that he admits that by 5-45 p.m. firing as well as stone-throwing stopped immediately after the lathi-charge. He admits that from 6.00 p.m. till he and Gerald Pereira left at about 9.30 p.m., they were in the house where Gerald Pereira was taken by him, and they did nothing till they left at about 9-30 p.m. when they went home. Gerald Pereira is the President of the union. Constantino Furtado is the Secretary of the Factory Committee. Thus both these are important witnesses of the union. Although a serious incident had taken place, it is surprising to find that these two important persons just did nothing from 6.00 p.m. to 9.00 p.m., even though according to them the management was responsible for the serious incident. Admittedly police were present on the spot, and it is surprising that these two persons did nothing to bring correct facts on record after bringing the same to the notice of the police immediately, although everything was admittedly quiet since 6.00 p.m. It is urged that the police themselves were on the scene, hence it was unnecessary to approach police. It is the union's allegation that the police were unduly favourable to the management. Even assuming this to be correct, if it was so, it was all the more necessary that Gerald Pereira and Constantino Furtado should have approached the police and asked them to record statements immediately. In fact they being eye witnesses should have insisted on their statements being recorded immediately, that was not done. In their evidence they do not explain why they did not do so. The only reason given during the arguments was that the police were unduly favourable to the management. I am not impressed by this explanation. Gerald Pereira, the President of the union, is a lawyer and he should have asserted himself, if he desired to bring correct facts on record, but for reasons best known to him he did not do it. It is urged on behalf of the management that both Gerald Pereira and Constantino Furtado were conscious that what took place was a deliberate attack on the factory by the workers, hence they did not take steps which they ought to have taken, if their version before the Tribunal was correct. In my view there is some force in this contention.

75. Gerald Pereira in his evidence admits that everything was quiet by 6.00 p.m.—it may be a little earlier at about 5.50 p.m. His evidence also shows that after the firing he was in that house till 8.45 p.m. when he went away. In his evidence Gerald Pereira says that after leaving at 8.45 p.m. he went to Margao and gave report to the Marathi Daily «Rashtramat». He then gave messages on phone to local papers. It is surprising that Gerald Pereira was more anxious to give information to press rather than seeing that the police took the necessary steps after such a serious incident. On 19-1-1974, Pereira says, he wanted to see the Chief Secretary, but he was not in the office. He then saw the Hon'ble Minister Pratapsingh Rane and narrated the incident to him. He then went to Police Head Quarters at Panjim, saw the Superintendent of Police and complained against Dy. S. P. Jog for his failure to disarm Jagdishrao immediately. According to Pereira, he did report to the Superintendent of Police that Dy. S. P. Jog had joined hands with the employers. Superintendent of Police assured him that he will take action against the culprits. This evidence shows that Gerald Pereira did everything else except what he should have done immediately after the serious incident as the head of the union and a citizen—a lawyer citizen. It is important to note that Superintendent of Police told Pereira that action could be taken only after he lodged a formal complaint, but it is surprising to find that Gerald Pereira instead of agreeing to lodge a complaint immediately, he told Superintendent of Police that Dy. S. P. Jog was personally present, he should lodge a complaint. It is difficult to understand why Pereira should adopt such an attitude. Evidence of Gerald Pereira shows that he has a strong bias against Dy. S. P. Jog. When Superintendent of Police

asked Pereira to lodge complaint and bring his witnesses, he told Superintendent of Police that he felt that it was a trap to arrest his witnesses. After this conversation with the Superintendent of Police, he went to Ponda Police Station at about 8.00 p.m. He met S. I. Khatib, who asked him to bring witnesses. Accordingly Pereira brought 6/7 persons as his witnesses. S. I. Khatib said he would record their statements, so saying, he took them inside, within 4/5 minutes S. I. Khatib came out and announced that all witnesses were under arrest. Pereira then told S. I. Khatib that he expected this trick, and on this ground he refused to lodge a complaint. I am unable to accept this version. Unless a complaint is lodged, the police officer will not normally start recording statements. It is, therefore, unlikely that S. I. Khatib would ask Pereira to bring witnesses, even though Pereira had not lodged his complaint. Pereira told Superintendent of Police, as well as S. I. Khatib that he would see how the case proceeds, and he shall give his statement after two days. Saying so, he left the police station for going home. Since Gerald Pereira while giving evidence made several allegations against the police, the Tribunal asked him to enumerate the grounds which made him feel that the police were pro-management. He enumerated the following grounds:

(i) Dy. S. P. Jog was present when meeting was held on 3rd or 5th January 1974, while the meeting was going on he went in the factory and stayed inside the factory for the whole night. The meeting ended at about 7 p.m. I left the place of the meeting and went home at about 7.30 p.m. Workers told me that Dy. S. P. Jog was in the factory till 3.00 a.m.

(ii) Dy. S. P. Jog attended the meeting held on 14th or 15th January 1974, he was sitting with E. Sequeira while the meeting was going on.

(iii) The police made a false panchnama regarding the incident in which bottles and itching powder etc. were attached allegedly from the workers.

(iv) Early morning on 12-1-1974, the police arrested almost all the workers sleeping in their quarters, that gave me the impression that the police are pro-management.

(v) At times, police accompanied the new workers when they went out for lunch.

(vi) The police were having their food in the company's quarters at the company's cost. I complained about this to P. S. I. Khatib and Dy. S. P. Jog orally.

(vii) The police took no action when the car speeded away dashing some persons.

(viii) S. P. did not take any action when I reported about explosive substances being kept in the trench within the compound of the factory.

(ix) The police did not take immediate action after the incident dated 18-1-1974. They started action at about 7.00 p.m., it could have been much earlier even at 6.00 p.m.

The above grounds are Pereira's mere allegations which do not find much support in the evidence on record. I do not propose to discuss whether the investigation after the incident during the night between 11th and 12th January 1974 and the incident in the evening on 18-1-1974 was proper, particularly because criminal cases with regard to these two incidents are still pending. The above grounds show that according to Pereira Dy. S. P. Jog associated himself with the management in such a manner that Pereira felt that he had joined hands with the management. The evidence on record, however, does not bear out such a criticism, as I shall presently point out while discussing evidence of Dy. S. P. Jog. I cannot attach much importance to the allegation that false panchnamas were made, as well as to the fact that workers were arrested at their residence. So also if the police accompanied new workers for protection, that also cannot necessarily be an indication that the police were pro-management. The allegation that police were having their food at company's cost is not supported by any evidence except the interested word of Pereira. Pereira makes a grievance that S. P. did not take action when it was reported to him that explosive substances were kept in the trench in the compound of the factory. Pereira admits that this was an oral complaint. If it went unheeded, it is difficult to see why Pereira did not take any further steps such as a complaint in writing or giving publicity to the inaction of the police in this respect. While alleging that the police did not take action immediately after the incident dated 18-1-1974, Pereira admits that they started action at about 7.00 p.m. His only grievance is it could have been earlier at 6.00 p.m. I have carefully considered these grievances against the police, but I am unable to hold that these are cogent and genuine grievances. Conduct of Gerald Pereira as disclosed by his own evidence shows that

he failed to take the necessary steps immediately after the incident dated 18-1-74 particularly as the head of the union and a lawyer. What is stated above clearly shows that Pereira was more anxious to give publicity to his own version of the incident, rather than taking necessary steps expected of him in order to see that during investigation by the police correct facts came on record. The evidence shows that Pereira had easy access to the Superintendent of Police, even to the Hon'ble Minister Mr. Rane. If there was any genuine grievance that the subordinate officers did not take necessary steps in spite of his asking them to do so, he could have approached the Superintendent of Police with that grievance. I find it difficult to accept Mr. Gerald Pereira's suggestion that even Superintendent of Police was partial towards the management and did not take the necessary steps. Gerald Pereira lodged his complaint after 4 days as disclosed by his own evidence. It was upto him to lodge a complaint immediately and keep on record the version, which according to him was correct.

76. Admittedly on 17-1-1974, i.e. just a day previous to the unfortunate incident dated 18-1-1974, admittedly Gerald Pereira went to the office of Superintendent of Police, where E. Sequeira, Jagdishrao and Dy. S.P. Jog were present. Pereira admits that Jagdishrao and Dy. S. P. Jog did not participate in the talks at that time. According to Pereira, E. Sequeira wanted an assurance from him that there will be no violence, and on that basis he was prepared to have a discussion. He assured that there would be no violence. In the cross-examination Pereira denies the management's suggestion that he (Pereira) said 'If I give you peace, you will complete your new recruitment'. Pereira further denies that E. Sequeira assured him that new recruitment would be stopped immediately the negotiations for settlement start. So also he denies that E. Sequeira left S.P.'s office because Pereira said 'How do I know what they (workers) are planning now'. In the cross-examination Pereira admits that the invitation for the meeting organized on 18-1-1974 does not specifically mention that lock-out was lifted. Pereira admits that he took no action even though the workers told him that a live wire was being connected to the explosive substance alleged to have been kept in the trench. In the cross-examination Pereira says that stone-throwing from the factory started just before the car carrying Roque Santan Fernandes was slightly reversed and taken away. He denies the suggestion that he struck a blow on the car with the stick in his hand. He admits that he did not lodge any complaint that the car dashed some persons as deposed to by him. According to Pereira, stones were directed not at the factory, but at the persons in the factory who were throwing stones. Pereira says that according to him persons in the factory must have thrown stones at the workers near the gate under the impression that they were attacking the car. He admits that the workers would not allow the car to go inside, unless they were satisfied that it carried no missiles, nor new employees. He admits that no worker told the driver after examining the contents of the car that the driver could take it inside. He further admits that none of the persons injured by stone-throwing from the factory lodged a complaint. Pereira in his cross-examination says: 'The procession arrived about 5 minutes after the car left. During these 5 minutes 2 shots were fired from the factory. According to me, the motive in firing gun-shots was to drive away the crowd—I mean about 20 persons near-about the gate—and with a view to frightening and dispersing the procession that was coming and also with a view to kill some persons to crush the union'. The above evidence shows that the car had already left, the procession was yet to come, if so, it is difficult to understand why gun-shots should have been fired from the factory at this moment, if no stone-throwing at the factory was going on at this time. According to Pereira, there were only about 20 persons near the gate, while according to the management there were about 300 persons assembled near the gate. The evidence unmistakably discloses that every day since the lock-out was declared on 23-11-1973 workmen at times exceeding 20 did assemble near the gate, the workmen held their meetings at the gate. Pereira in his evidence admits that on an average there used to be about 50/100 workmen near the gate of the factory every evening. Nothing had happened prior to 18-1-1974 even though workmen assembled near the gate and held their meetings. If so, it is difficult to understand why the management should take into its head to fire at 20 stray workmen near the gate. According to Pereira 2 shots were fired even before the procession came. If so, the question of dispersing the procession does not arise. According to Pereira, shots were fired to deter the procession from coming towards the place of meeting. I am

unable to believe this version. Meetings were held in the past, and if a procession came and then the meeting was held, there seems to be no reason why gun-shots should have been fired merely because of a procession ending into a meeting. So also it is difficult to believe the allegation that gun-shots were fired with a view to kill some persons and thereby crush the union. Considering the probabilities, I am unable to accept the version disclosed by the above-quoted evidence of Pereira. Pereira admits that after the third gun-shot, which was after the arrival of the procession, stone-throwing at the factory was heavy which caused falling down of the tarpulin covering the glasses and the glasses broke. According to Pereira, the stone-throwing at the factory stopped about 5 minutes before G.R.P. arrived. This again seems to be unlikely. The evidence shows that G.R.P. arrived, there was a lathi-charge, and only after that the stone-throwing stopped. Pereira says he did not see any fire in the compound of the factory before he left that place. He denies that the workers set on fire the grass in the factory compound, a truck in the compound and the officers' quarters. Pereira admits that stone-throwing had stopped before he left that place, this shows that he must have left after the lathi-charge started and the stone-throwing stopped. Pereira denies the suggestion that he planned an attack on the factory on 18-1-1974. It is important to note that Pereira denies that there were about 300 workers near the factory gate when the standard car came. He further says that if there was such a large number, the car would have been crushed completely. This shows the attitude of the persons who surrounded the car. It does appear to me on probabilities that when the standard car carrying Roque Santan Fernandes came near the factory gate, the workers who were nearby admittedly stopped it, did not allow it to enter the gate, and in all probability wanted to attack it, that is why the car was slightly reversed and speeded away within 2/3 minutes. Considering the probabilities it further appears that the workers who wanted to attack the car felt frustrated, got infuriated as it managed to slip away, and then started throwing stones at the factory. Pereira was shown the report in Navhind Times dated January 23, 1974-Exh. C-99. This report mentions that the workers' rally called upon the Government to forcibly vacate new recruits from the factory or to remove police so that the workers could deal directly with the black legs. It further mentions that a resolution was passed giving a call for boycotting coca-cola and fanta throughout Goa. The resolution further warns the vendors of severe consequences and instructed them to remove even the empties. Pereira denies the correctness of this report. He further says that no such resolution was passed, but admits that one of the speakers made a speech to that effect except using the words 'severe consequences'. This report is relied upon by the management to contend that the union was instigating violence and contemplated forcible mass entry into the factory. In my opinion, there is considerable force in this contention. Report in Navhind Times dated 30-1-1974, Exh.C-101, was shown to Pereira. This report shows that at a meeting of the workers Pereira declared that Coca-Cola Factory will not be allowed to be re-started unless 200 striking workers were duly reinstated. Mr. Pereira says that the report is substantially correct, though not properly worded. Management relies upon the expression 'striking workers' to contend that although the lock-out was lifted by the management, the workers were on strike. Pereira was also shown report in Navhind Times dated 17-2-1974, Exh. C-102. Pereira admits this report to be correct. This report shows that a truck carrying coca-cola bottles was waylaid and emptied. Pereira admits that he addressed the meeting on 19-2-1974, but denies the correctness of the report of that meeting, Exh. C-83. He denies that in his speech he said that the workers will effect a forcible entry into the factory, no matter at what cost. Pereira further denies the correctness of the report in Gomantak dated 22-2-1974, which shows that the workers intended forcible entry into the factory, but they could not do so because of the police. Pereira in his evidence admits that the statements of witnesses taken by him to Ponda Police Station were recorded, even though they were put under arrest. Considering the evidence of Pereira as a whole, I find it extremely difficult to accept his version of the incident dated 18-1-1974 for reasons indicated above, particularly because he failed to see that correct facts were brought on record by making a statement before the police immediately after the incident.

77. I shall now briefly refer to the other evidence led by the union with regard to the incident dated 18-1-1974.

U.W.3-Francis Mascarenhas says that on 18-1-1974 he came to the factory at about 5.00 p.m. to attend the meeting that was announced. He further says that while coming out of his residence, i.e. the quarters provided by the employers, he was told that stone-throwing was going on, hence he did not proceed further. He also told that firing was going on, hence — he says — he returned to his quarters. He, however, goes on to say that from his quarters he saw Jagdishrao firing. Being afraid of the firing, he continued to be at his residence, he did not stir out. In his evidence he says that there were about 500 persons outside the factory gate, on hearing the gun-shots they started running helter skelter. He admits that from his quarters the factory gate itself cannot be seen, he saw only people running here and there. In the cross-examination he says that he saw Jagdishrao firing from a spot near carpenters' shed, while he was standing in front of his residence. He denies that waste oil tank and truck were set on fire. He says that he did not see stones coming in the direction of the spot where Jagdishrao was standing. He admits that he could not see what was going on in front of the factory. Considering the evidence of this witness as a whole, I think he is not giving out all the facts correctly. He seems to have gone to his residence soon after the trouble started, and he does not seem to have seen the details of the incident. It is, however, important to note that he admits that a large number of persons had collected at the gate of the factory and there was stone-throwing.

78. Next witness is Afonsohino Fernandes-U.W.4. He says that he was one of those who had to make arrangements for the meeting to be held on 18-1-1974. In his examination-in-chief he substantially reports the version given by Pereira. He claims to have seen Jagdishrao with a gun in his hand near the carpenters' shed. He along with others took an injured man to Dy. S. P. Jog who, according to this witness, asked him to tell Pereira. According to him, there were 8 or 9 gun-shots in all, he went to his residence at about 5.50 p.m. At about 6.30 p.m. after the incident he went to his village. He says that while lathi-large was going on, stones from the factory were coming. In the cross-examination he admits that he did not see anything that happened to the car. According to him, stones coming from the factory were aimed at the persons standing near the gate. He admits that the tarpulin covering the glasses fell down and the glasses broke due to stone-throwing. He admits that stone-throwing from the road went on till lathi-large was made by G.R.P. He denies that from the place he was standing, he could not see the spot near the carpenters' shed from where Jagdishrao fired. According to him, until the morcha arrived, nobody outside the factory threw stones at the factory. He denies that he was one of the persons throwing stones at the factory. For the reasons given while discussing Pereira's evidence I am unable to accept the version of this witness also.

79. The next witness is U. W. 5-Archibald D'Souza. He says that he was in the morcha which came to the factory at about 5.40 p.m. He heard cracker-like sound while morcha was approaching the factory. He saw 10/12 persons near the factory, he saw them running as stones came from the factory. He saw 2/3 persons injured, hence he was afraid and went to his room. He did not see the police dispersing the crowd. In the cross-examination he denies knowledge about the incident that took place during the night between 11th and 12th January 1974. He says he came to know it only from the papers. He resides in the quarters provided by the employers and it is impossible to believe that he did not come to know about the incident that took place during the night between 11th and 12th January 1974. In the cross-examination he admits that he did not see what was happening in front of the factory. He further says that he did not see Gerald Pereira when the morcha arrived near the factory gate. I am unable to place reliance on the evidence of this witness. I am unable to believe that a morcha was arranged for reasons already stated. In view of that, it is clear that the evidence of this witness also cannot be said to be reliable.

80. Next witness is U. W. 6-Joaquim Rozario Rodrigues. In his evidence he substantially supports Pereira's version. He, however, says that he did not see anyone obstructing the car i.e. the car carrying Roque Santan Fernandes. It is obvious that if he was present and saw the car coming, as shown by his evidence, this statement is not correct in view of the other evidence already referred to. He is unable to say what was the object at which stones from the factory were thrown. He is one of the persons who sustained injury due to gun-shot. He says that he saw procession coming from Borim Bridge side after he received injuries due to firing. This witness was

undoubtedly present during the incident as he sustained injury due to a gun-shot. He says that stones from the factory fell on the car. In answer to questions by the Tribunal, he says that he heard the first gun-shot about 4/5 minutes after the car speeded away. He admits that he did not see exactly what happened when the car arrived. All that he knew is that there was some commotion at that time. This evidence also is not, according to me, reliable for reasons already indicated.

81. Next witness U. W. 7-Jose D'Souza in his examination-in-chief says that on 17-1-1974 he went to Siolim and returned after a week. Thus he denies his presence near the factory on 18-1-1974. He denies the suggestion that he participated in the attack on the factory.

82. Next witness is U. W. 8-Suresh Molu Naik. According to him, he went to the factory at about 5.15 p.m. He substantially supports the version of Pereira. He sustained injury due to second gun-shot. He lodged complaint at Ponda Police Station 4 days later. The cross-examination shows that he was one of the persons standing near the gate. He says they were there to guard the gate so that missiles could not be taken inside the factory. He says that he and others could not say whether there were missiles in the car as a crowd rushed there. This admission shows that as soon as the car arrived, it was surrounded presumably with a view to attack the same. His evidence appears to be tutored. He denies that Gerald Pereira gave them instructions to stand near the gate. He is unable to say whether Gerald Pereira struck the rear glass of the car with a stick, as he says he fell down when the car was being reversed. This version of the witness shows that the car was surrounded, hence while it was reversed, some persons may have fallen down. He admits that Tarpulin covered the glasses of the factory, but he pretends ignorance about the fact that Tarpulin fell down and glasses broke because of stone-throwing. This shows that the witness is a partisan witness. Tribunal has made a note at the end of his evidence, which indicates that he is a tutored witness.

83. Next witness is U. W. 10-Joseph Francis D'Costa. In his examination-in-chief he does not depose to the incident dated 18-1-1974. In the cross-examination he says that he was at the tail-end of the morcha, even when the morcha came near the factory, he did not go to the factory as people were dispersing. He admits that he does not know what happened at the factory. Seeing the people dispersing, he went away. He denies that he participated in the attack on the factory.

84. This is all the evidence led by the union with regard to the incident dated 18-1-1974. I shall now deal with the evidence led by the employers with regard to the incident dated 18-1-1974.

85. M. W. 1-Soares in his examination-in-chief does not refer to the incident dated 18-1-1974, presumably because a criminal case is pending against him. There is nothing in the cross-examination also with regard to this incident, except that he admits his presence in the factory at that time.

86. M.W. 6—Dy. S. P. Jog in his evidence says that on 18-1-74 he went to the factory at about 5.15 p.m. He was instructed by the Superintendent of Police to go there, as a meeting was organised. Trouble was expected, hence with the permission of I.G.P. he had asked one G. R. P. Platoon to go and be in readiness at Ponda Police Station. According to Dy. S. P. Jog, at about 5.30 p.m. Pereira asked about 20 workmen to line up in front of the factory gate forming a chain. Pereira instructed not to allow any person, who was not an employee of the factory prior to 23-11-1973, to go into the factory. He (Jog) first parked his jeep inside the factory compound, but when a line was formed at the gate, he directed the jeep to be taken out, so that it may be available for emergent purposes. When the car carrying Roque Santan Fernandes arrived, he was sitting near the scheduled place of meeting. When he received the information that the car was going to be obstructed, he sent message to Ponda Police Station to send G.R.P. platoon. According to him, the car was obstructed, stones were pelted at the car, hence the car slipped away. After the car slipped away, about 100 persons out of the 300 persons outside the factory gate started pelting stones at the factory. Stone-throwing was heavy, the tarpulin covering the glasses of the factory fell down and the glasses broke. Some workers outside the gate attempted to climb the compound wall and enter into the compound. When the stone-throwing was at its peak, he heard cracker-like sound coming from a distance. There were 3/4 such noises, 2 more were heard from a shorter

distance. He then went to the factory gate at about 5.38 p.m. and remained there. At about 5.39 p.m. a man with pellet injury approached him. He gave instructions to remove him to the hospital, but he refused to go. According to Dy. S. P. Jog, stone-throwing went on continuously from 5.30 p.m. to 5.45 p.m., when G.R.P. platoon arrived. Jog says that this attack on the factory took place even before the meeting was held, and due to this incident there was no meeting at all. The crowd was dispersed by lathi-charge made by G.R.P. platoon. In the cross-examination attempt is made to show that Jog was friendly with the management and consequently partial towards the management. The cross-examination does not, however, bring out circumstances which would support the above allegation against Jog. Beyond making suggestions, which Jog has denied, there is no effective cross-examination. If the above allegation was correct, attack on the factory with such extensive damage would not be there. The cross-examination does, however, indicate that Jog ordered dispersing of the crowd in view of the heavy stone-throwing that was going on. This could obviously be done only when G.R.P. platoon arrived. Jog is definite that the first gun-shot appeared to him like the sound of a cracker. That clearly indicates that the first shots must have been fired at the rear of the factory. The only point sought to be made out in the cross-examination is that immediate steps to take charge of the gun with which shots were fired were not taken. Everything was quiet by 6.00 p.m. but the gun was taken charge of at 7.30 p.m. I do not propose to discuss steps taken by the police which would constitute investigation, inasmuch as criminal cases are pending. It is, however, obvious that in view of the heavy stone-throwing that went on, it was not easy to enter into the factory before dispersing the crowd that was throwing stones. In the circumstances disclosed by the evidence before me, I am unable to hold that any steps could be taken to prevent the firing before the crowd was dispersed. For the purpose of these references it would not be very material whether the gun was taken charge of at 6.00 p.m. or 7.30 p.m. when it was actually taken charge of. Jog in answer to the questions put by the Tribunal did state that he noticed 3/4 stones coming from inside the factory after the car of Roque Santan Fernandes had speeded away. It does, therefore, appear that there was some stone-throwing from the factory, but it is equally clear that it was only after heavy stone-throwing from the road started. Jog's evidence shows that the first shot was fired at about 5.36 p.m., and Jog noticed stones coming from the factory at 5.39 p.m. Considering probabilities I think the stone-throwing from the factory must be at a later stage as a retaliation to the heavy stone-throwing from the road outside the factory. I have carefully considered the criticism by the union against Dy. S. P. Jog, I find that the criticism is unjustified. As already observed, beyond suggestions in the cross-examination, the evidence does not disclose any circumstances which would indicate that Jog was partial towards the management. It does appear to me that the union adopted a hostile attitude after the lock-out was lifted and carried on activity, including violent activity, with a view to pressurise the management to reinstate the three dismissed employees as a condition precedent to the other employees resuming work after the lock-out was lifted. Attack on the factory that took place during the night between 11th and 12th January 1974 is a clear indication of the attitude adopted by the union. It is urged on behalf of the management that the workers desired a forcible entry into the factory, and it was with that view that the two incidents, viz. incident during the night between 11th and 12th January 1974 and incident in the evening of 18th January 1974, took place. Considering the evidence as a whole, I think there is some force in the above contention. The hostile attitude naturally started after the factory was re-started from 5th January 1974. It was the presence of the police that came in the way of the contemplated forcible entry. Being thus, frustrated allegations, which the union is unable to establish, are made against the police. If the union had taken care to bring the correct facts on record immediately after the above two incidents, and if the facts thus brought on record had disclosed partial attitude of the police, it would have been a different matter altogether. I can understand humble workers not taking necessary steps immediately after the above two incidents, but I fail to understand why Pereira, who is the President of the union and a lawyer, failed to take such steps. It is important to bear in mind that Pereira seems to have easy access to higher authorities including the Minister, if so, one fails to understand why Pereira could not take effective steps immediately after the above two incidents. It is also clear from the evidence on record that Pereira can give wide publicity in papers, whenever he desires to do so. I fail to understand why specific written com-

plaints against the police were not made to the higher authorities from time to time, nor do I understand why publicity to the inaction of the police and failure of higher authorities to redress the grievance (if it was made) in that respect was not given quoting particular incidents. Even after considering the union's criticism against the police carefully I am unable to accept the union's version with regard to the incident that took place in the evening on 18-1-1974.

83. Management has examined M. W. 7 Nelson D'Souza, Police Photographer. Photos are relied upon by the management. It is, however, unnecessary to refer to them inasmuch as it is not disputed even by the union that heavy damage breaking all glasses was caused to the factory during the incident that took place in the evening of 18th January 1974. Nelson in his evidence says he heard the persons outside the factory saying 'Let us go inside'. Evidence of Nelson shows that there was stone throwing at the car, as well as at the factory by the persons near the gate of the factory. He denies the suggestion that stone-throwing at the factory started only after the gun-shots were fired. He denies that any procession came there at that time.

84. Management has examined M. W. 9-S. I. Khatib. His version is substantially the same as that given by Dy. S. P. Jog. In his evidence S. I. Khatib says: "In the meantime a blue standard car came from Margao side, and took a turn towards the main gate of the factory. It was stopped by the workmen standing in a line. There was shouting by workmen. I wanted to proceed towards the car, but before I could reach there, the car speeded away towards Ponda. Stone-throwing started even when that car was in front of the main gate. There was counter stone-throwing from inside the factory. The stone-throwing was first at the car and then at the factory. The counter stone-throwing started when the car was speeding away and was being stoned at. The car speeded away at about 5.30 p.m. There were about 300/400 persons outside the factory gate along the Ponda road. Some of them were pelting stones at the factory. If the police tried to disperse them, they used to gather at some other spot and start pelting stones. The police were then brought to the gate. At about 5.35 p.m. we heard some cracker-like noise which we subsequently discovered to be gun-shots. I heard 5/6 cracker-like sounds, I did not actually count them. The stone-throwing at the factory was heavy. The stone-throwing went on from 5.30 to 5.40 p.m. with little breaks in between". Considering the probabilities, it is impossible that stone-throwing from the factory would start unless stone-throwing by persons near the factory-gate started. Evidence of S. I. Khatib shows that workmen near the gate tried to attack the car which could luckily escape, there was some stone-throwing from the factory seeing that the car was attacked by a large number of workmen. As already observed, mere presence of workmen at the gate and mere obstruction to a vehicle would not provoke stone-throwing from the factory. Even before 18th January 1974, workmen used to be at the gate, meetings were held, vehicles were obstructed, and yet there was no attack from the factory. It is, therefore, clear to me that stone-throwing from the factory must be by way of retaliation. S. I. Khatib denies the suggestion that a procession arrived there, and that gun-shots were fired even before the procession came. According to S. I. Khatib, there was no procession at all. S. I. Khatib states that panchanama regarding damage to the factory and other facts was not drawn up immediately after the incident, as panchas were not available on the spot. He adds that panchas from Borim village were not called, because on the previous occasion when they were called, they were threatened. Considering the situation created by the incident, the above statement cannot be rejected as absolutely baseless, although I do not want to discuss it in detail, as it would be a part of the investigation. Evidence of S. I. Khatib supports the union's version only to the extent that there was some stone-throwing from the factory. As pointed out above, on the evidence before me I hold that stone-throwing from the factory must have started by way of retaliation only after stone-throwing by the persons near the gate started.

85. At the request of the parties S. I. Gaonkar was examined as Tribunal's witness, as in the opinion of the Tribunal he was a material witness inasmuch as he was inside the factory for some time when the incident dated 18-1-1974 took place. His evidence shows that at about 5.00 p.m. there were about 100 persons, more persons were coming, and by about 5.30 p.m. there were about 300 persons. In his evidence Gaonkar says that at about 5.35 p.m. he was instructed by Dy. S. P. Jog to go inside the factory, ring up and call the Mamlatdar. Accordingly he went inside the factory

and rang up to the Mamlatdar who agreed to come. No sooner he put down the receiver, there was a shower of stones at the factory, hence he could not go back and report to Dy. S. P. Jog. He tried to get out from the rear side of the factory, but could not get out, as stones thrown from the front side were falling there. In view of all this, he rang up to Ponda Police Station to ask for help. When he was putting the call to Ponda Police Station, he heard the report of a gun-shot. After hearing the first gun-shot report he went to the rear of the factory, he saw there about 60/70 employees inside the factory, they were mightily afraid. He could not contact the police even from the rear, hence he came back to the front door of the factory building again. He stood near the jail in front of the phone. He then heard two more reports of gun-shots. He noticed a gun in the hand of Jagdishrao, stone-throwing continued, it abated by 5.45 p.m. when he came out by the rear door. Gaonkar says at that time under orders the crowd was dispersed. He denies that any procession came there. He heard 4/5 gun-shots in all. His statement was recorded by S. I. Khatib on 19-1-1974, supplementary statement was also recorded. He does mention that he helped in extinguishing the fire in the officers' quarters, fire near the waste oil-tank and fire to an empty truck. He took 3 injured persons to Ponda hospital at 9.00 p.m. He denies that a procession came there at about 5.40 p.m., as suggested by the union. He denies that the new employees inside the factory threw stones. According to him Sores handed over pellets to Jagdishrao. He says that he did not take any action against Jagdishrao, as it was not possible for him to do so in the then existing circumstances. His statement before the police, Exh. C-81(4), was shown to him. He admits that statements were explained to him after they were recorded. His statement before the police dated 19-1-1974, Exh. C-81(4), shows that he did state before the police that there were about 70/80 persons inside the factory who started pelting stones at the workers outside. It is, therefore, difficult to accept his statement that he did not notice stones being thrown from the factory. All the same it is important to note the sequence of events mentioned in his statement before the police. That statement read in its sequence shows that stone-throwing from the gate of the factory started first, and then the stone-throwing by the workers inside the factory began. The version disclosed by his statement before the police seems to be more probable. Gaonkar's evidence shows that the first gun-shot was fired at the rear, presumably from a spot near the carpenters' shed. Although a contradiction with reference to Gaonkar's statement before the police is brought on record, I do not think that it is an adequate ground to reject Gaonkar's version altogether. His evidence does support the conclusion that heavy stone-throwing by persons near the factory-gate started first, and then there was some stone-throwing from the factory by way of retaliation.

86. Management has examined M.W.10-Anthony Francis Xavier, Administrative Manager. He was present when the incident dated 18-1-1974 took place. He does not give details of the incident in his examination-in-chief. In the cross-examination he confirms that S. I. Gaonkar was near the phone for about 2/3 minutes. He denies the union's suggestion that heavy stone-throwing at the factory was only after gun-shots were fired.

87. Management has examined Erasmo Sequeira. In his examination-in-chief he says that he met Gerald Pereira in S.P.'s office on 17-1-1974, he wanted an assurance of no violence from Pereira, which he failed to get. He was not present when the incident dated 18-1-1974 took place. Whatever he has said is only from the information he received from others.

88. Management has examined M. W. 18-Joao Francis D'Costa. He was present at the Borim factory on 18-1-1974 when the incident took place. His statement was recorded at 10-00 p.m. on 18-1-1974, it is Exh. C-97. According to D'Costa, 4 shots were fired, all in the air, even after shots were fired, stone-throwing at the factory by persons at the gate continued. According to D'Costa, there were about 25 workers near the gate blocking the same. His evidence shows that when the car carrying Roque Santan Fernandes was reversed, there were some persons surrounding the car, 3/4 persons out of them fell down, none of them was seriously injured, they immediately stood up and went away. His evidence shows that the workers near the car were dealing fist blows on the car, the car was reversed and it speeded away. According to him, the workers did not hit the car with stones, but only with fist blows. According to D'Costa, immediately after the car speeded away, stone-throwing at the factory started, when this

stone-throwing started, stones were thrown from the factory also. According to him, there were about 150 persons near the factory gate. He is definite that gun-shots were fired within 2/3 minutes after stone-throwing at the factory started. He denies that there were only 25/30 persons when the car came. According to D'Costa, Gerald Pereira dealt a stick-blow on the car. He denies the union's version. He denies that S. I. Gaonkar was in the factory when the incident took place. I do not accept this statement as correct. It may be that he did not notice S. I. Gaonkar. Obviously he was observing the incident, and not individuals. He denies the suggestion that he stated in his statement before the police that Gerald Pereira dealt a stick-blow on the car, because Dy. S. P. asked him to say so. His statement before the police, Exh. C-97, shows that the car was stopped by the workmen at the gate, Gerald Pereira hit the rear wind screen with the stick in his hand, and in the meantime other workers near the gate started throwing stones at the car, and later on at the factory. This statement is relied upon by the management to content that striking a stick-blow by Gerald Pereira on the rear wind-screen was a signal to the workmen to start attack on the factory. D'Costa's statement was recorded very soon after the incident i.e. at 10-00 p.m. on 18-1-1974. It is difficult to accept the union's suggestion that D'Costa's statement before the police was a tutored statement. As shown by this statement, it does appear that as soon as the car arrived, it was surrounded, attempt to attack the car was made luckily the car could escape, which obviously infuriated those who surrounded the car and wanted to attack it, and stone-throwing at the factory started. It does appear to me that it is probable that Gerald Pereira struck the car with the stick in his hand. Even assuming it was not so considering the evidence as a whole I have no doubt whatever that the workers, who obstructed the car carrying Roque Santan Fernandes, wanted to attack it. I further accept the evidence that the number of persons near the gate at that time was not only 10/20 as suggested by the union, but it was considerably large, at least 150, if not more.

89. This is all the evidence with regard to the incident dated 18-1-1974. Considering the evidence carefully, I find that a meeting was announced and was intended, but I am unable to hold that a procession was organized. I reject the union's version that a procession was organized and it did arrive near the factory gate. As indicated above, I hold that the Standard car carrying Roque Santan Fernandes arrived, I do not accept the union's version that the car knocked down persons when it arrived, the workers who were near the gate suspected that the car wanted to take inside the factory missiles and new hands, hence it was surrounded and those who surrounded it wanted to attack it also. The car, however, managed to escape. When it escaped, it was surrounded by persons, hence it is probable that 2/3 persons fell down when it was reversed, but there is no evidence to show that any-one was seriously injured. Since the persons who surrounded the car and wanted to attack it obviously felt frustrated as it managed to escape, they got infuriated and started heavy stone-throwing at the factory. It was then by way of retaliation that there was some stone-throwing from the factory also. I accept the management's version that some of the workers managed to enter the factory compound, presumably from the rear side, and set fire to the grass in the factory compound, to a truck and a portion of the officers' quarters.

90. There is some evidence relating to incidents that took place after 18-1-1974. It is, however, unnecessary to discuss it, since that evidence does not disclose any change in the attitude of the workers. That evidence does not disclose that workers were willing to resume work, but they were not allowed to do so. These observations relate to the period upto the date these references were made. It must be mentioned here that during the hearing of these references about forty-five workmen have resumed work.

91. On the evidence before me, and on considering the events that took place since the lifting of the lock-out on 11-12-1973, it is in my opinion clear that the workers' attitude—obviously on the advice of the Union—was «All or none». The workers knew soon after 11-12-1973 that the lock-out was lifted, but they decided not to resume work unless the wages for the lock-out period were paid, and the three dismissed employees were reinstated. Although not formally declared, in effect the workers were on strike since they failed to resume duty in spite of the knowledge

that the lock-out was lifted. I need not repeat that the events subsequent to the lifting of lock-out are discussed only with a view to find out whether the lock-out was really lifted, or it was a mere show of lifting the lock-out, and whether the workmen were on strike since 11-12-1973. For reasons indicated above, I hold that the workmen were in effect on strike since the day they came to know the lifting of the lock-out i.e. from 13-12-1973, as pointed out above. I do not accept the union's version that although notice lifting the lock-out was put up, the workers were not in effect allowed to resume duty.

92. It is unfortunate that the Union should have advised the workmen not to resume duty even after the lock-out was lifted, unless wages for the lock-out period were paid and three dismissed employees were reinstated. In any case this attitude should not have been continued so long. This attitude indicating protest can be justified only for a short period, a token strike one can understand, but there seems to be no justification for continuing this attitude indefinitely, even though it imposed unemployment on a large number of workmen. So also I do not think that the Union can absolve itself of the responsibility of the violence that took place, particularly the incident during the night between 11th and 12th January 1974 and the incident dated 18-1-1974, apart from the question whether the part played by the employers during the incident dated 18-1-1974 was justified or not, which I do not propose to discuss as criminal cases arising out of that incident are still pending. It was certainly desirable that the Union at an appropriate stage — not many days after 11-12-1973 — should have advised workmen to resume duty, leaving the question of justifiability of the lock-out and re-instatement of three dismissed employees to arbitration or adjudication, if it was clear that these questions could not be settled within a few days. If it was correct that after the lock-out was lifted, the watchmen and police obstructed the workmen even though they desired to resume duty, the union ought to have clearly written to the management to that effect, which for reasons best known to the Union was not done. Notions of prestige of the Union should not be allowed to out-weigh the interest of the workers in the long run.

93. In view of the above discussion, my conclusions are as follows:

Ref. (IT-GDD) Nos. 12 and 13 of 1974

(i) The action of the management of M/s. Fabril Gasosa, Borim, Ponda (Goa), and M/s. Agencia E. Sequeira, Borim Establishment, Ponda (Goa), in imposing lock-out on all their workmen, excluding security staff, with effect from 23-11-1973 was not justified.

(ii) The employees of the above two concerns who were locked out would be entitled to their full wages and other emoluments, if any, for the period from 23-11-1973 to 12-12-1973 (inclusive).

Re. (IT-GDD) No. 10 of 1974

The action of the management of M/s. Agencia E. Sequeira in terminating the services of Afonso Fernando was not justified. Afonso Fernando is entitled to immediate reinstatement, with continuity of service. Accordingly I direct the management to reinstate him immediately with continuity of service.

Ref. (IT-GDD) No. 11 of 1974

The action of the management of M/s. Fabril Gasosa in terminating the services of Constantino Furtado and Joseph U. D'Souza was not justified. These two employees are entitled to immediate reinstatement with continuity of service. Accordingly I direct the management to reinstate them immediately with continuity of service.

Ref. (IT-GDD) Nos. 14 and 15 of 1974

The workmen of M/s. Fabril Gasosa and M/s. Agencia E. Sequeira were on strike at least since 13-12-1973, hence they would not be entitled to any wages since 13-12-1973.

94. Parties will be heard with regard to back wages to be awarded to the three dismissed employees, whose dismissal is held to be unjustified. This question as to back wages will be determined after hearing the parties.

95. Award accordingly. No order as to costs.

M. G. CHITALE
Industrial Tribunal

Order

No. CLE/1/ID(5)/74/IT-10/74

The following Award given by the Industrial Tribunal, Goa, Daman and Diu, on an Industrial Dispute between the Management of M/s. Agencia E. Sequeira, Campal, Panaji, Goa, and their workmen employed by them is hereby published as required vide provisions of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947).

P. Noronha, Under Secretary, Industries and Labour.

Panaji, 17th December, 1974.

Before Shri M. G. Chitale, Industrial Tribunal, Goa, Daman and Diu

Reference (IT-GDD) No. 20 of 1974

Adjudication

Between

M/s. Agencia E. Sequeira, Panjim, and its Units/Establishments at Carambolim, Navelim and Borim.

And

Their workmen

In the matter of employment, etc.

Appearances:

Shri Erasmo de Sequeira, for the employers.

Shri Gerald Pereira with Shri George Vaz for the workmen.

AWARD

This is a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947, relating to the dispute between M/s. Agencia E. Sequeira, Panjim, and its Units/Establishments at Carambolim, Navelim and Borim and the workmen employed by the said establishments. The demand in the reference reads thus:—

«Whether the workmen of M/s. Agencia E. Sequeira, Panjim with its Units/Establishments at Carambolim, Navelim and Borim were on strike or were refused employment by the Management with effect from 23-11-1973?

To what relief, if any, the concerned workmen are entitled?»

2. In the statement of claim, it is alleged that in 1967 and 1969, the employees attempted to form union, but these attempts were disapproved by the management, the management used repressive measures to prevent the formation of the union, hence the union could not be formed. In May/June 1973, the employees joined All Goa General Employees' Union. This also was disapproved by the management, employees who joined the union were threatened, for this purpose some employees who had not joined union were availed of. It is further alleged that on 23-11-1973 the management declared lock-out. According to the Union, this lock-out is illegal and wholly unjustified. The union alleges that the employees at the three sales-depots at Carambolim, Navelim and Borim, were also covered by the lock-out notice. It is further alleged by the union that in any case as a matter of fact the employees at the three sales-depots were not allowed to work, even though they were asked by the union to work i.e. report for duty every day. The union alleges that in spite of the declaration of the lock-out, the employees continued to report for duty, but they were not allowed to work. On these allegations, the employees submit that the lock-out should be declared to be invalid and illegal, and the employees should be paid their full wages.

3. By its written statement the management denies that the lock-out notice covered the employees of the three sales-depots. According to the management, the employees at the three sales-depots failed to report for duty since 23-11-1973, notice dated 6-12-1973 was served on the employees, stating that they remained absent without obtaining leave, asked them to show cause why disciplinary action should not be taken against them and they were also advised to resume duty immediately. In spite of this notice the employees concerned failed to report for duty. In view of this, the employees concerned are not entitled to any relief. The allegation that although the employees reported for duty and were willing to resume work, they were not allowed to do so, is denied by the management.

3. The management raised preliminary objection as to the maintainability of the reference. Separate order dated 11-5-1974 dealing with these objections is passed, that order shall be attached as annexure 'A' to this award.

4. Parties agreed that the evidence led by them in reference (IT-GDD) Nos. 10 to 15 of 1974 relating to the union's allegations regarding the management's attitude towards formation of union and joining the union should be considered as evidence in this reference also. In references (IT-GDD) Nos. 10 to 15 of 1974 I have held that the union has failed to establish its allegations in this respect. My finding is the same in this reference also.

5. The first question for consideration in this reference is whether the lock-out notice covered the employees at the three sales-depots at Carambolim, Navelim and Borim. Lock-out notices—Exs. C-24 and C-24A in references (IT-GDD) Nos. 10 to 15 of 1974 is considered in this reference with the consent of the parties. Ex. C-24 relates to the employees of Fabril Gasosa, while the notice Ex. C-24A relates to the employees of M/s. Agencia E. Sequeira, Borim Establishment. It is urged by the union that these notices, particularly Ex. C-24A, cover the employees of three sales-depots also. This is denied by the management. In this respect I may refer to the evidence of M.W.7—R. C. Soares, Manager of Fabril Gasosa. In answers to the questions by the Tribunal, he has stated that there is a sales-depot at Borim, it is under M/s. Agencia E. Sequeira, Campal, which conducts all the three sales-depots. According to Soares, «Borim Establishment means workshop, it does not include Coca Cola factory, nor Borim sales-depot». He further says: «Borim Complex consists of Coca Cola factory, workshop and Borim Sales Depot». It is urged by the Union that Soares, Manager of Fabril Gasosa, was in over-all charge and issued orders to the employees of all the three sales-depots also. The union disputes the management's allegation that the three sales-depots are dealt with separately, hence they are not covered by the lock-out notices, Exs. C-24 and C-24A. It is common ground that there is a sales-depot at Borim. Notice Ex. C-24 is on the letter-head of Fabril Gasosa, while Ex. C-24A is on the letter-head of M/s. Agencia E. Sequeira. Ex. C-24A specifically mentions Borim Establishment. Evidence of Soares shows that prior to 1970 sales were managed by Fabril Gasosa i.e. Coca Cola factory itself, but since 1970 sales were entrusted to M/s. Agencia E. Sequeira i.e. M/s. Agencia E. Sequeira, Campal, were appointed selling agents, and since 1970 this firm is managing the three sales-depots. As stated above, the notice, Ex. C-24A, specifically mentions 'Borim Establishment'. Prima facie the expression 'Borim Establishment' would include all the activities carried on at Borim by M/s. Agencia E. Sequeira. I am unable to accept the evidence of Soares that 'Borim Establishment' does not include sales-depot at Borim. Agreement between Fabril Gasosa and M/s. Agencia E. Sequeira merely appoints the latter as Selling Agent, as Sellings Agents M/s. Agencia E. Sequeira may be managing sales-depot at Borim, but that does not necessarily mean that the expression 'Borim Establishment' does not include sales-depot at Borim. Agreement, Ex. C-15, does not define that expression. The material portion of the notice Ex. C-24A reads thus:—

«We, hereby declare a LOCK OUT of all the employees of the firm excluding security staff with effect from today, the 23rd of November 1973 at 8 a.m. until further notice.

for Agencia E. Sequeira,
Borim Establishment,

Sd/-

(A. M. Khaunte)

Manager».

This operative portion of the lock-out notice makes it clear that all employees of Borim Establishment, excluding the security staff, were covered by the lock-out notice. The position with regard to employees of the sales-depots at Carambolim and Navelim is, however, different. It is obvious that sales-depots at Carambolim and Navelim do not form part of Borim Establishment. Union's witnesses in their evidence admit that notice declaring lock-out was not put up at the two depots at Carambolim and Navelim. Ex-facie it is, therefore, clear that the employees of the sales-depots at Carambolim and Navelim were not covered by the lock-out notice. The union, however, alleges that in fact the employees at the said two depots at Carambolim and Navelim were told that there was lock-out, and they were not allowed to work since 23-11-1973. This allegation is denied by the management. In view of this, evidence in this respect is led by the parties.

6. I shall first deal with the Union's evidence. U. W. 1—Vithoba Ganu Naik was working as a driver at Borim on 23rd November 1973. In his evidence he says that on 23rd November 1973 he went to attend duty at 6.30 a.m. He took out Coca Cola truck and took it to Navelim depot. He reached Navelim at about 8.00 a.m. and reported to the Shipping Clerk. About 15 minutes later Depot Supervisor Kamat came there, and asked Vithoba Naik and other employees of the depot to go out. Vithoba Naik and other employees asked Kamat as to why they were asked to go out, and they were told that there was lock-out. Thereafter Kamat locked the depot and went out. The employees waited there. Kamat arrived after about an hour. Even at that time Vithoba Naik was asked to go. He further says that the watchman and the police at the gate, when asked as to what had happened, asked him to read the notice. The employees thereafter waited there till 5.00 p.m. and then went away. According to Vithoba Naik and union witnesses, they reported for duty every day even after 23rd November 1973, but they were not allowed to work. Vithoba Naik says that he has signed the letters—Exs. U-3 and U-4, dated 21st and 29th December 1973 respectively. These letters are alleged to have been sent under certificate of posting. I shall deal with these letters later on. In his cross-examination, Vithoba Naik admits that the Shipping Clerk took charge of the truck from him and signed the docket. He, however, denies that the docket was handed over to him. According to Vithoba Naik, he was told that the docket would be handed over when the Depot Supervisor—Kamat comes, but Kamat asked him to go out without handing over the docket. Vithoba Naik's evidence shows that after he went to Navelim, the truck was unloaded. Vithoba Naik admits that he received notice similar to Ex. U-1, which mentions that he had unauthorisedly remained absent since 23rd November 1973, he was asked to show cause why disciplinary action should not be taken against him, and he was advised to report for duty immediately. He says that he sent reply similar to Ex. U-2 to the notice, Ex. U-1. This reply, which is dated 13th December 1973, denies unauthorised absence and asserts that he was reporting for duty every day inspite of the lock-out. Vithoba Naik further admits that he did not attend the enquiry, although he received notice similar to Ex. C-1, which asked him to attend the enquiry. Vithoba Naik says Constantino Furtado, who explained the contents of the notice—Ex. C-1 to him, said that A. Rodrigues will hold the enquiry. According to Vithoba Naik, Rodrigues had threatened the employees saying «You come one by one and I shall see». Vithoba Naik further asserts that the threat by Rodrigues was the only reason why he did not attend the enquiry. He admits that he did not even know Rodrigues until the date of the alleged threat by him. He denies that on the date of the enquiry Rodrigues came out, asked him to attend the enquiry, but he refused.

7. The material question for consideration is whether Vithoba Naik can be believed when he says that Kamat Depot Supervisor at Navelim, asked him to go out, stating that there was a lock-out. The management has examined Kamat—Depot Supervisor at Navelim. He denies that he told the employees that there was a lock-out, and asked them to go out. According to Kamat, after Vithoba Naik's truck arrived from Borim, he instructed the loader to unload it and load the same with empties. Just at that time Jose Pereira came on a motor-bicycle, had a talk with loaders and salesman, at this time Kamat was in his office. After this talk, a driver and four salesman approached Kamat and told him that there was a lock-out at Borim, hence they would not work. Kamat says that he told the employees that there was no lock-out at Navelim, hence they should work as usual. Eight loaders also approached him and similar conversation took place with them. The employees after this conversation left and stood outside the depot. Kamat further says that in view of this situation, he contacted the head office on phone and narrated the situation. In the cross-examination he denies the union's version.

8. Considering the probabilities, particularly the fact that notice of lock-out was not put up at Navelim, I find it difficult to believe Vithoba Naik's statement that Kamat told him that there was a lock-out. It does appear even from the evidence of Vithoba Naik that normal working did go on for sometime and thereafter it stopped. The question for consideration is whether it stopped because Kamat told the employees that there was a lock-out, or whether it was on account of instructions given to the employees by Jose Pereira, as stated by Kamat. Considering the probabilities, I think it was because of the conversation between Jose Pereira and the other employees that normal working stopped after sometime. There is nothing in the cross-examination

of Kamat to indicate that his evidence in the examination-in-chief is unreliable.

9. Union has examined U.W.2—Ravji Jaganath Kolwalkar, Shipping Clerk at Carambolim Sales depot. According to him, on 23-11-1973 at about 8-30 a.m. although salesmen were ready to go on duty as usual, Rebeiro, Depot Supervisor, asked the salesmen not to go on duty, as the employers declared a lock-out. The salesmen, therefore, did not go on duty. Kolwalkar, however, says that Rebeiro asked him to go on with his duty as usual, and accordingly he worked on 23-11-1973 till 5-00 p.m. as usual. Next day he reported for duty at 8-00 a.m., but found the sales-depot locked. He asked Rebeiro whether he should resume work, when Rebeiro said 'no'. He received notice similar to Ex. U-1, wrote reply similar to Ex. U-2, he has signed the letter Ex. U-3. Kolwalkar's cross-examination shows that he prepared the voucher—Ex. C-2 and made payment to the loaders concerned. He admits that the load report, Ex. C-3, was signed by Salesman Minguel Furtado. He admits that the salesman signs when he takes charge of the goods loaded on the truck. The names of the salesman and the loaders in Ex. C-3 are admittedly in Kolwalkar's hand. Kolwalkar claims that it is his duty to allot trucks and routes to salesmen, while according to the management, it is the Depot Supervisor who makes such allotment. Considering the evidence of the Depot Supervisors and the union's witnesses, I think Depot Supervisor issues instructions in this respect, at times in the previous day, and Shipping Clerk carries them out. Kolwalkar admits that he was allowed to work throughout the duty period on 23-11-1973. According to Kolwalkar, this was so because Rebeiro—Depot Supervisor was out. Kolwalkar did not attend duty from 24th onwards, as according to him he was not allowed to work. He admits that notice regarding lock-out was not put up at the depot gate. He admits that since 23-11-1973 Erasmo Sequeira came to Carambolim depot, but he denies that he talked to workmen. He denies that during the period from 23-11-1973 to 30-11-1973 Erasmo Sequeira talked to workmen several times. He says that he informed the Union within a day or two that in spite of the notice, Ex. U-1, he and other employees were not allowed to work. He denies that he received notice similar to Ex. C-1, but his evidence shows that he knew the date of the enquiry, which was fixed on 27-12-1973. His evidence shows that he wanted to attend the enquiry but could not do so, as gate was closed and the watchman was not present. Kolwalkar says that he met the Enquiry Officer—Rodrigues about a day or two before the enquiry when he (Rodrigues) threatened that he would dismiss all of them, as they had joined the union. He admits that he was bodily removed by the police on the ground of obstructing a vehicle, which he says he did not obstruct. I am unable to believe the evidence of Kolwalkar, when he says that after 23-11-1973 he and other employees were not allowed to work. If his version, viz. Rebeiro told that there was a lock-out, is correct, there is no reason why Rebeiro should have made exception in his case on 23-11-1973. So also his statement that he was not allowed to resume work in spite of the notice Ex. U-1 cannot be accepted, considering the probabilities.

10. Union has examined U.W.-3—Martis Tony Fernandes, Shipping Clerk at Navelim Depot. According to him, on 23-11-1973 he and other employees came to attend duty at 9-00 a.m., started work as usual, but the Depot Supervisor Kamat came at about 8-15 a.m. and asked him to hand over the keys to him. After the keys were handed over to Kamat, he asked them to go out. When asked as to why they were asked to go out, Kamat said I will show you—workmen who have joined union. He also says that although they reported for duty, they were not allowed to work. He admits that he received notice similar to Ex. U-1, gave reply similar to Ex. U-2, and he has signed the letter Ex. U-3. On the date of the enquiry, he says he was at the gate, but no one called him to the enquiry room. It is urged that several enquiries were fixed on a day, and although the employees concerned were at the gate, they were not called inside at the time of enquiry. As against this, the management's version is that Rodrigues—the enquiry Officer himself called them, but they refused to come in. I am unable to accept the Union's version that although employees were present and wanted to attend the enquiries, they could not attend, as no-one called them, in view of the union's letter Ex. U-3. The contents of that letter make it clear that according to the employees, Rodrigues was hostile to them, and they were afraid to enter the management's

office for enquiry. In view of this, it is in my opinion obvious that the employees had no mind to attend the enquiry. In the cross-examination he admits that notice declaring lock-out was not put up at Navelim Depot. He admits that the employees were not sure that there was lock-out, as Vithoba Naik had come to Navelim with a truck. He says that on receiving notice dated 6-12-1973, similar to Ex. U-1, the employees asked Kamat whether they could resume work, but Kamat did not allow them. He, however, admits that the said notice was not shown to Kamat, when they asked him whether they could resume work. He says that the employees had decided to attend enquiry under protest, only if the Enquiry Officer called them. He further says that in view of the letter—Ex. U-3, which he had signed, he did not bother to inquire what had happened at the enquiry. This clearly shows that the employees had after writing Ex. U-3 no mind to attend the enquiries. He admits that he did not ask Depot Supervisor Kamat why the management did not reply to Ex. U-3. For the reasons already indicated above, I am unable to believe the evidence of Martis Tony Fernandes, when he says that the employees were not allowed to work since 23-11-1973.

11. Gerald Pereira, President of the Union, has given evidence. He says that he advised the workmen to report for duty every day. He states that the letters, Exs. U-3 and U-4, were sent under certificate of posting by his office. He proves the letter dated 14-12-1973—Ex. U-5. This refers to the notices similar to Ex. U-1 and asserts that the workmen were not absent, they were reporting for duty every day. It is, however, important to note that this letter, though dated 14-12-1973, does not refer to the lifting of the lock-out, which was admittedly lifted on 11-3-1973, and by 14th even Pereira himself had come to know about the lifting of the lock-out. He denies that during his talks with Erasmo Sequeira, Erasmo Sequeira distinguished the employees of the sales-depots from other employees. He denies the suggestion that the press statements—Ex. C-72 and C-89 (Exhibits in other references referred to by consent) do not indicate that lock-out order covers sales-depots also. He explains that the union's letter—Ex. U-5 does not mention that the management did not allow the workmen to resume duty in spite of the notice similar to Ex. U-1, as according to Pereira, this was reported to him only by 25-12-1973. This statement is contradicted by the evidence of union's witnesses themselves referred to above. In reply to questions by the Tribunal, Pereira says that he gave instructions for drafting the letter Ex. U-3, including allegations against the Enquiry Officer. These instructions were based on what Napoleon Colaso told him. Pereira admits that he did not verify what Napoleon Colaso told him. Pereira says that he believed the report against the Enquiry Officer, he being an employee of the employers. He admits that there was no other reason for objecting to the enquiries, except the report by Napoleon Colaso. It is important to note that Pereira says that he did not issue specific instructions whether the employees should or should not attend the enquiries, as he expected reply—Ex. U-3. He, however, modifies this statement by stating that when some of the employees specifically asked him, he told them that there was no harm in attending the enquiry under protest. He admits that the union took no action, although there was no reply to Ex. U-3. Pereira's evidence does not disclose that he took care to ascertain which employees were covered by the lock-out notice not even after the employees received notices similar to Ex. U-1. In the first place, as the President of the union he should have ascertained that even on 23-11-1973, inasmuch as the evidence of the union's witnesses shows that some of them were doubtful whether there was lock-out. This was particularly necessary, inasmuch as the lock-out notices do not specifically mention sales-depots, and as pointed out above, it is impossible to say that the lock-out notices cover sales-depots at Carambolim and Navelim, even though the position of sales-depot at Borim is doubtful. So also it is difficult to understand why Exs. U-3 and U-4, which are signed by the employees, were sent under certificate of posting, and not by hand delivery or registered post. In fact, these letters should have been written by the union officially. I am unable to accept Pereira's evidence when he says that during discussions with Erasmo Sequeira he did not distinguish the employees of the sales-depots. The evidence shows that admittedly Erasmo Sequeira had talk with employees on 6-12-1973 and immediately thereafter the notices similar to Ex. U-1 were issued. In view of this, considering the probabilities, I cannot accept Pereira's statement that employees of sales-depots were not dealt with separately by Erasmo Sequeira during discussions with Pereira.

12. Union has examined U.W.5—Minguel Furtado—driver-salesman at Carambolim sales-depot. He admits that he signed the load report Ex. C-3 on 23-11-1973. According to him, after

signing the load report Basco Rebeiro said «there is a good news, that is lock-out at Borim and I cannot leave the depot». In effect, he says that Rebeiro asked him not to go out with the truck on 23-11-1973. His evidence is also to the effect that since 23-11-1973 they were not allowed to work, although they reported for duty every day. He denies that he actually took the truck upto Old Goa, although I will presently point out that he did take the truck upto Old Goa. He admits that Erasmo Sequeira had come to Carambolim several times, but denies that he had several talks with employees. He, however, admits that Erasmo had talk with the employees at Borim. His evidence with regard to notices—Exs. U-1 and U-2 is the same as that of other witnesses. He says that he wanted to attend the enquiry, but he was not called by the Enquiry Officer, as expected by him. His cross-examination shows that notices relating to the sales-depot were issued by Depot Supervisor—Rebeiro, but notices with regard to maintenance of trucks were issued by Khaunte, and the employees received the same through Rebeiro.

13. It would be necessary to consider the evidence of M. W. 4—Shaikh Mohamed Shaikh Ali, loader at Carambolim depot along with the evidence of U.W.5—Minguel Furtado. Evidence of Shaikh Mohamed Shaikh Ali shows that he worked on 23-11-1973, Ex. C-2 shows that he received Rs. 1.50 as loader. His evidence discloses that his truck, i.e. truck driven by U. W. 5—Minguel, and two more trucks left the depot, they went towards Old Goa, trucks stopped near Gandhiji statue, as drivers wanted to have tea. While the trucks were there, a man on motor-cycle came from Borim and asked the salesmen not to take the trucks on route, hence the three trucks returned to the depot, depot supervisor—Rebeiro asked the salesmen to work, but they refused saying that they would like to help the strike at Borim. Thereafter the employees sat outside the gate. Later on a procession was led. Shaikh Mohamed Shaikh Ali attended that procession, but two days thereafter he resumed work throughout. This statement of Shaikh Mohamed Shaikh Ali is borne out by pay sheet—Ex. C-7. Although Shaikh Mohamed Shaikh Ali did not in his examination-in-chief specifically state that the truck on which he went was driven by U. W. 5—Minguel, that has been clarified by the cross-examination which discloses the anxiety to deny that Shaikh Mohamed Shaikh Ali went on truck driven by U.W.5—Minguel Furtado. Shaikh Mohamed Shaikh Ali denied that he started working at Carambolim depot only in November 1973. According to him, he has been working at Carambolim since August 1973, but the muster roll that was produced shows that he was working at Carambolim from March 1973 to 10th June 1973, and thereafter since 7th November 1973. It further shows that he was absent from 23-11-1973 to 3-12-1973. No doubt Shaikh Mohamed Shaikh Ali was not right when he said that he had been working at Carambolim since August 1973, but that seems to be due to lapse of memory. After all he is an humble loader. It is also important to note that in his examination-in-chief he said «I have been working as a loader at Carambolim depot since August 1973, so far as I remember». This shows that the discrepancy brought out by the muster roll does not disclose any dishonest statement, but it is sheerly due to lapse of memory. This witness impressed me very well, I have made a note to that effect immediately after his evidence was recorded. He seems to have realised the futility of refusing to go to work and started attending duty since 4-12-1973, and continued to do so thereafter in spite of the fact that his wife was threatened with death. That discloses the conviction of Shaikh Mohamed Shaikh Ali about the futility of not attending duty in spite of the fact that Rebeiro asked them to attend. This undoubtedly shows that the evidence of M. W. 2—Rebeiro—Depot Supervisor at Carambolim to the effect that he told the employees that there was no lock-out and they should work is correct. I prefer the evidence of M. W. 4—Shaikh Mohamed Shaikh Ali to that of M.W. 5—Minguel Furtado.

14. Evidence of M. W. 2—Rebeiro—Depot Supervisor at Carambolim is substantially to the same effect as that of Shaikh Mohamed Shaikh Ali, which I find quite reliable. According to Rebeiro, he asked the salesmen why they had returned, and Joao Cruz told that that they were on strike. When asked as to why they were on strike, Cruz told him that they had received instruction from Borim that they should go on strike. Rebeiro further states that he ascertained the correct position from Rodrigues—Sales Manager and then told the employees that there was no lock-out, they should work, but they insisted that they would not work. Evidence of Rebeiro shows that Minguel Furtado and Joao Cruz were doubtful, hence they said that they would go to Borim and ascertain the correct position. Accordingly they went to Borim. His evidence further shows that the employees in the office worked till lunch, but they did not resume

after lunch. This evidence, which I believe, clearly shows that the employees were in doubt as to whether they were covered by the lock-out, but even after ascertaining facts they refused to resume work, presumably on the advice of the union. Rebeiro's evidence further shows that Uclid Sequeira, an employee at that depot, worked throughout. Rebeiro's cross-examination does not bring out anything to cast doubt on his above statements. The only point brought out in the cross examination is that there is no specific entry noting that the trucks had gone out, but returned within half an hour. Rebeiro's evidence shows that there were three load reports, which indicate that the three trucks were loaded and did go out. These load reports are signed by the three salesmen concerned. I believe above-mentioned evidence of M. W. 2—Rebeiro.

15. M. W. 3—Euclid Sequeira corroborates what Rebeiro has stated. His cross-examination shows that he is a newly appointed salesman, he was not confirmed in November 1973. It is urged that being a new man, he is favouring the employers by giving evidence in their favour. I am unable to accept this contention in view of the evidence of Shaikh Mohamed Shaikh Ali and Rebeiro, as well as the load reports.

16. Management has examined Anthony M. Rodrigues, Manager of Agencia E. Sequeira at Campal. His evidence shows that he as the Sales Manager decided to hold enquiries against the employees of sales-depots. There is no letter of appointment in this respect. That, however, does not make his evidence unreliable. Undoubtedly since 1970 sales are managed by Agencia E. Sequeira of which Rodrigues is the Manager. If so, he could decide to hold enquiries, when necessary. In his evidence, he says that when he went to hold enquiries, the workers were outside the gate. He approached them and asked them to attend the enquiries, they said they would not like to attend the enquiries. He denies that he had visited the depots since 23-11-1973 before the enquiries were held. He denies that he threatened the workers, as alleged by the union in the letter—Ex. U-3. I see no reason to disbelieve Rodrigues when he denies that he threatened the workers.

17. Management has examined Erasmo E. Sequeira. In his evidence he says that on getting information with regard to the situation in sales-depots on 23-11-1973, he visited Carambolim sales depot on 24-11-1973. The employees were at the gate. He talked to them. He advised them to resume work immediately, but they did not accept his advice. They said there was lock-out at Borim, hence they would not work. He further says that he visited that depot two or three more times upto 4th December 1973, but did not succeed in persuading the employees to resume work. On 6-12-1973 he called all the employees of all the depots to Borim and tried to persuade them to resume work, but did not succeed. In the cross-examination he admits that on 6-12-1973 he talked to all the employees, including the employees of Coca Cola factory and the workshop, and not only to depot employees. He, however, asserts that he asked only the depot employees to resume work immediately. He denies the union's suggestion that he merely asked the employees, including depot employees, to remain calm so that lock-out could be lifted. So also he denies that suggestion that the dispute relating to depot employees was treated separately only after 6-12-1973. I believe the evidence of Erasmo E. Sequeira to the effect that he talked to the depot employees asking them to resume work, but failed to persuade them to do so. It is important to note that he visited only Carambolim depot prior to 6-12-1973, and talked to all the depot employees on 6-12-1973.

18. On behalf of the union some documents are produced to show that the depots are not treated as separate units, separate from Coca Cola factory and the workshop. These documents are Exs. U-8 to U-10. Ex. U-8 is a letter dated 9th November 1968 addressed to Tulsidas Parpoti, who is at present a depot employee. This letter is on the letter-head of Fabril Gasosa and is signed by Soares, Manager of Fabril Gasosa. Identity card of Tulsidas Parpoti is produced, it is Ex. U-6. These documents are relied upon to contend that the depot employees also are treated as the employees of Fabril Gasosa. Ex. U-7 is similar identity card relating to K. M. Chatim. Ex. U-10 is the identity card of the Shipping Clerk Martires Fernandes. Identity cards—Exs. U-6 and U-7 are issued by Fabril Gasosa, while the identity card, Ex. U-10 is issued by Sequeira Enterprises. Soares, Manager of Fabril Gasosa, is examined. In his evidence he says that sales were conducted by Fabril Gasosa upto 1970. When the sales department of Fabril Gasosa was closed, sales were entrusted to M/s. Agencia E. Sequeira since 1970. Soares in his evidence says that the letter Ex. Y-8 is dated 9th No-

vember 1968, i.e. prior to the transfer of the sales department to M/s. Agencia E. Sequeira, in 1968 employees concerned with sales were employees of Fabril Gasosa, but they ceased to be so since 1970. The identity cards, Exs. U-6 and U-7, are of the year 1967. In view of this, the explanation offered by Soares seems to be correct. With regard to the identity card, Ex. U-10, Soares admits that in 1972 he had issued this identity card, as he is in charge of security, being in charge of security he issues identity cards to all the employees, including depot employees, as depot employees also are required to enter Borim factory and in order to facilitate their entry into Borim factory, identity cards to depot employees also are issued by Soares. The explanation offered by Soares appears to be reasonable and I accept it.

19. Ex. U-9 is letter dated 18-10-1972 addressed to the Shipping Clerk Fernandes on the letter-head of Agencia E. Sequeira signed by Soares. Soares in his evidence states that he signed this letter, as the depot supervisor concerned was absent. This is the solitary letter relating to depot signed by Soares in 1973. I accept the explanation offered by Soares.

20. This is the evidence led by the parties. I have carefully considered the lock-out notices and the evidence discussed above. On this evidence, I am unable to hold that sales-depots at Carambolim and Navelim were covered by the lock-out notice. With regard to sales-depot at Borim, however, the position is different. As pointed out above, the lock-out notice, Ex. C-24A, specifically mentions Borim Establishment. The notice Ex. C-24A is signed thus:

«for Agencia E. Sequeira,
Borim Establishment,

Sd/-

(A. M. Khaunte)

Manager»

I am unable to accept the employers' contention that the expression 'Borim Establishment' does not include the sales-depot at Borim. It is important to note that the lock-out notice, Ex. C-24A, is on the letter head of Agencia E. Sequeira. On behalf of the Union, it is urged that the notice, Ex. C-24A, mentions «DECLARE A LOCKOUT of all the employees of the firm», the employees at the sales-depots at Carambolim and Navelim are employees of Agencia E. Sequeira, hence they too are covered by the lock-out notice. I am unable to accept this contention. The expression 'employees of the firm' cannot be considered in isolation. The lock-out notice must be considered as a whole. It is a notice for Borim Establishment. As indicated by the portion quoted above—it is signed by the Manager of Borim Establishment. It is true that sales-depot at Borim is not under the control of Khaunte, who has signed the lock-out notice, Ex. C-24A. This, however, would not help the employers. The employees would not know whether Khaunte had the authority to impose lock-out on employees of Borim Sales-depot. If the employees of Borim sales-depot felt by reading the notice that they also were locked out, that impression cannot be said to be unjustified. It is also important to bear in mind that after declaring lock-out and putting up the lock-out notice, the gate was closed, if in view of this the employees of the sales-depot at Borim felt that they were covered by the lock-out, they cannot be said to be unjustified and unreasonable. It is also pertinent to note that employers have led no evidence to show that the employees of the sales-depot at Borim were specifically told that they were exempted or excluded from the lock-out. In the absence of such evidence I hold that even though it may be that the employers did not intend to impose lock-out on the employees of Borim sales-depot, those employees, i.e. the employees of Borim sales-depot were justified in their understanding that they were converted by the lock-out notice.

21. With regard to employees of Carambolim and Navelim sales-depots, the position is different. On the evidence led before me, there was no scope for the employees of Carambolim and Navelim sales-depots to get the impression that they were locked out. As already stated, I believe the employees' evidence that on 23-11-1973 itself the employees of Carambolim and Navelim depots were told by the Depot Supervisors that they were not covered by the lock-out.

22. In view of the above discussion, I hold that the employees of Carambolim and Navelim sales-depots were not covered by the lock-out notice, they were so told, inspite of that

they failed to attend duty. They persisted in this attitude inspite of the notices like Ex. U-1. They are, therefore, not entitled to any relief.

23. With regard to employees of Borim sales-depot, for reasons indicated above, I hold that they were justified in not attending duty upto and inclusive of 6-12-1973, but not thereafter. The employees of Borim sales-depot will, therefore, be entitled to full wages, including other emoluments if any, for the period from 23-11-1973 to 6-12-1973 (inclusive), and I direct the employers to pay the same. Award accordingly. No order as to costs.

M. G. CHITALE

Industrial Tribunal

By order and in the name of the Lt. Governor of Goa,
Daman and Diu.

P. Noronha, Under Secretary, Industries and Labour.

ANNEXURE «A»

Before Shri M. G. Chitale, Industrial Tribunal, Goa, Daman and Diu

Reference (IT-GDD) No. 20 of 1974

Adjudication

Between

M/s. Agencia S. Sequeira, Panjim, and their Units/Establishments at Carambolim, Navelim and Borim.

And

Their workmen

In the matter of refusal of employment, etc.

Appearances:

Mr. E. Sequeira, employer, present.

Mr. Gerald Pereira and Mr. George Vaz for the workmen.

ORDER

11-5-1974

Mr. E. Sequeira—the employer has raised two preliminary objections. They are:

(i) On the date of the reference which is dated 19-2-1974, the relationship of employer and employee did not subsist, as the employees concerned were dismissed by orders dated 29-1-1974, hence this reference is not tenable.

(ii) The order of reference itself discloses no industrial dispute, hence the reference is not tenable.

2. According to the employer, he passed orders of dismissal on 29-1-1974 against all the employees who are concerned in this reference. Relying on this, it is urged that on 19-2-1974, the date of reference, the relationship of employer and employee did not subsist, and there could be no valid reference, if such relationship did not subsist.

3. I am unable to accept the above contention of the employer. It is clear from the Union's letter dated 7-1-1974—Ex. U-1 in other six references, that grievance was made that there was a lock-out even against the employees covered by this reference. The letter mentions industrial dispute between the employees of M/s. Agencia E. Sequeira, Campal, Panjim and M/s. Fabril Gasosa, Borim and allied establishments and their management. It is clear that according to the union lock-out was declared even against the employees concerned in this reference, who are employees in the Sales Depots at Borim, Carambolim and Navelim. It is clear from the employer's letter dated 11-1-1974 written to the Assistant Labour Commissioner, Ex. U-2 in other six references, that the expression 'M/s. Agencia E. Sequeira, Campal', covers the said depots and consequently the employees concerned in this reference. The Union's letter dated 7-1-1974 referred to above sought intervention of the Labour Commissioner to start conciliation proceedings. A copy of this letter was sent to the Secretary, Industries and Labour Department, Panjim, as well as to the employer. In view of this, it is clear that the employer knew that dispute regarding lock-out was raised even in respect of the employees employed in the sales depots. So also when a copy of that letter was sent to the Secretary, Industries and Labour Department, Panjim, Goa, Government was apprised of that dispute. It is not disputed did subsist. The failure report is dated 25-1-1974. That report

that on 7-1-1974 the relationship of employer and employee also makes it clear that the dispute relating to the employees concerned in this reference was covered by the conciliation proceedings. Government undoubtedly has the power to refer a dispute even without a failure report under Section 10(1)(d) of the Industrial Disputes Act, 1947, (hereinafter referred to as the Act). It is urged that whatever be the position on 7-1-1974, on 19-2-1974, the date of reference, the relationship of employer and employee did not subsist and that would render the reference invalid. I am unable to accept this contention. All that is necessary is that there must be an industrial dispute as defined by the Act before Government, which could be referred to Industrial Tribunal. In the present case, on the facts stated above, there can be no doubt that the Government was apprised of the dispute in question by the Union's letter dated 7-1-1974 referred to above. Failure report dated 25-1-1974 also placed that dispute before Government. Thus it is clear that the Industrial dispute in question was before the Government when admittedly the relationship of employer and employee did subsist. If so, subsequent termination of the relationship of employer and employee would be of no consequence, an employer cannot by such action stifle a dispute which is already before the Government. In view of this, I overrule the first preliminary objection.

4. With regard to the second preliminary objection, it is urged that it is not the employer's case that the employees concerned in this reference were on strike, nor is it the Union's case that they were on strike. Thus there is no dispute on this account that can be referred to the Tribunal. In view of the statement of claim and the written statement, as well as the statements by the parties made before me during arguments on the preliminary points, it is clear that it is nobody's case that the employees concerned in this reference were on strike. Thus at least on this account there is no dispute in this case.

5. It is further urged that it is not the employer's case that there was refusal of employment, what is mentioned in the statement of claim is lock-out, and not refusal of employment, hence there is no proper dispute referred to the Tribunal. I am unable to accept this contention also. The use of the expression 'refusal of employment' merely states the effect of a lock-out. It is alleged by the Union that there was lock-out. The employer denies it. Thus it is clear that there is a dispute and it is properly referred to the Tribunal. Thus this objection also fails. Reference shall proceed on merits. Order accordingly.

Sd/-

M. G. CHITALE
Industrial Tribunal

Order

No. CLE/1/ID(159)/IT-29/72-73-74

The following Award given by the Industrial Tribunal, Goa, Daman and Diu, on an Industrial Dispute between the Management of M/s. Hotel Mandovi, Panaji, Goa and the workman employed under them, is hereby published as required vide provisions of section 17 of the Industrial Disputes Act, 1947 (XIV of 1947).

P. Noronha, Under Secretary, Industries and Labour.

Panaji, 26th December, 1974.

Before Shri M. G. Chitale, Industrial Tribunal, Goa, Daman and Diu

Reference (IT-GDD) No. 35 of 1973

Adjudication

Between

M/s. Hotel Mandovi, Panaji
And

Their workman Shri Loyola Pontes, represented by
Goa Hotel and Restaurant Employees Union Betim.

In the matter of payment of arrears of increment.

Appearances:

Mr. Ramesh Desai, for the employers.
Mr. George Vaz, for the Union.

AWARD

(11-12-1974)

This is a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947, relating to the dispute between M/s. Hotel Mandovi, Panaji, (Goa), and Loyola Pontes, — an employee of the said Hotel. The dispute in this reference is:

«Whether the Goa Hotel and Restaurant Employees Union, Betim is justified in demanding from the Management of M/s. Hotel Mandovi, Panaji, the payment of arrears of increment to the workman Shri Loyola Pontes for the past years of his services;

If not, what relief the concerned workman is entitled to?».

2. At the hearing of the reference Mr. George Vaz for the union stated that the dispute while hearing before the Tribunal was going on, was settled, it no more survives. In view of this statement, it is unnecessary to adjudicate upon the demand as the dispute no more survives. Accordingly I dispose of the reference on the ground that the dispute no more survives. Award accordingly. No order as to costs.

Sd/-

M. G. CHITALE
Industrial Tribunal

By order and in the name of the Lt. Governor of Goa,
Daman and Diu.

P. Noronha, Under Secretary, Industries and Labour.

Revenue Department

Order

No. RD/COM/55/71-75

- Read: — (i) Government Order No. RD/COM/55/71 dated 27-12-1972 published in the Government Gazette No. 40, Series II dated 4th January, 1973.
(ii) Government Order No. RD/COM/55/71-74 dated 19-1-1974 published in the Government Gazette No. 43, Series II dated 24th January, 1974.

1. The temporary appointment of Shri Orlando Sequeira Lobo as administrator of Comunidades of Tiswadi, is hereby renewed for a further period of one year with effect from 27th December, 1974.

2. The temporary appointment of Smt. Elu Miranda as administrator of Comunidades of Salcete, is hereby renewed for a further period of one year with effect from 27th December, 1974.

By order and in the name of the Administrator of Goa,
Daman and Diu.

F. A. Figueiredo, Under Secretary (Revenue).

Panaji, 2nd January, 1975.

Notification

No. RD/LQN/135/74

Whereas by Government Notification No. RD/LQN/135/74 dated 5-6-74 published on page 102 of Series II, No. 12 of the Government Gazette, dated 20-6-74 it was notified under Section 4 of the Land Acquisition Act, 1894. (hereinafter referred to as «the said Act») that the land, specified in the schedule appended to the said Notification (hereinafter referred to as the «said land») was likely to be needed for the public purpose viz. Approach Road to Carmonem Bridge.

And whereas the appropriate Government (hereinafter referred to as «the Government») is satisfied after considering the report made under sub-section (2) of Section 5A of the said Act, that the said land specified in the schedule hereto is needed to be acquired for the public purpose specified above.

Now, therefore, the Government is pleased to declare under the provisions of Section 6 of the said Act that the said land is required for the public purpose specified above.

2. The Government is also pleased to appoint under clause (c) of Section 3 of the said Act, the Dy. Collector, Goa South Sub-Division Margao to perform the functions of a Collector

for all proceedings hereinafter to be taken in respect of the said land, and to direct him under Section 7 of the said Act to take order for the acquisition of the said land.

3. A plan of the said land can be inspected at the office of the said Dy. Collector, Margao till the award is made under Section 11.

SCHEDULE
(Description of the said land)

Taluka	Village	Plot No.	Survey No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6
Sanguem	Commonem	1	—	Shri Durganand Sanvordekar, Petrol Dealers, Sanvordem.	3385.00
Boundaries:					
North: Shri Durganand Sanvordekar.					
South: — do —					
East: River.					
West: Road to Calay.					
— do —	— do —	2	—	1) Shri Kashinath Pandurang Shete Parkar. 2) Shri Ramanath T. S. Parkar of Margao.	2335.00
Boundaries:					
North: Kashinath Parkar.					
South: — do —					
East: Road.					
West: River.					
Total					5720.00

By order and in the name of the Lt. Governor of Goa, Daman and Diu.
S. R. Arya, Secretary (Revenue).
Panaji, 28th December, 1974.

Notification
No. RD/LQN/128/74

Whereas it appears to the Appropriate Government (hereinafter referred to as «the Government») that the land specified in the schedule hereto (hereinafter referred to as the «said lands») is likely to be needed for public purpose viz Acquisition of land for locating Fish Market.

Therefore the Government is pleased to notify under sub-section (1) of section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the «said Act») that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contracts for the disposal of the said land by sale, mortgage, assignment, exchange or otherwise, or any outlay commenced or improvements made thereon without the sanction of the Collector appointed in paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of Section 24 of the said Act, be

disregarded by him, while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act will be published in the Official Gazette, in due course. If the acquisition is abandoned wholly or in part, the fact will be notified.

4. The Government is further pleased to appoint under clause (c) of Section 3 of the said Act the Collector of Daman to perform the functions of a Collector under the said Act in respect of the said land.

5. The Government is also pleased to authorise under sub-section (2) of Section 4 of the said Act, the following officers to do the acts, specified therein in respect of the said land.

1. The Collector of Daman.
2. The Executive Engineer, P. W. D. Daman.

6. A rough plan of the said land is available for inspection, in the office of the Collector, Daman for a period of 30 days from the date of publication of this Notification in the Official Gazette.

SCHEDULE
(Description of the said land)

Sr. No.	Taluka	Village	Plot No.	Survey No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
1.	Daman	Katheria	202	—	1) Shri Sam Dadabhai Wadia, Nani Daman.	1343
2.	— do —	— do —	—	—	2) — do —	405
3.	— do —	— do —	—	—	3) Shri Fakirbhai Mussaji, Kathiria Nani Daman.	14
Total						1762

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.
S. R. Arya, Secretary (Revenue).
Panaji, 7th January, 1975.

Notification

No. RD/LQN/157/74

Whereas it appears to the Appropriate Government (hereinafter referred to as «the Government») that the land specified in the schedule hereto (hereinafter referred to as the «said land») is likely to be needed for public purpose viz Acquisition of land for locating Bus Terminus.

Therefore the Government is pleased to notify under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the «said Act») that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contracts for the disposal of the said land by sale, mortgage, assignment, exchange or otherwise, or any outlay commenced or improvements made thereon without the sanction of the Collector appointed in paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of Section 24 of the said Act, be

disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under Section 6 of the said Act, will be published in the Official Gazette, in due course. If the acquisition is abandoned wholly or in part, the fact will be notified.

4. The Government is further pleased to appoint under clause (c) of Section 3 of the said Act the Collector of Daman to perform the functions of a Collector under the said Act in respect of the said land.

5. The Government is also pleased to authorise under sub-section (2) of Section 4 of the said Act, the following officers to do the acts, specified therein in respect of the said land.

1. The Collector of Daman.

2. The Executive Engineer, P. W. D. Daman.

6. A rough plan of the said land is available for inspection in the office of the Collector, Daman for a period of 30 days from the date of publication of this Notification in the Official Gazette.

SCHEDULE

(Description of the said land)

Sl. No.	Taluka	Village	Plot No.	Survey No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
1.	Daman	Kathiria Nani Daman	432	—	Jamshedji Sorabji Luth Kathiria, Nani Daman.	13,199.00
Total						13,199.00

By order and in the name of the Lt. Governor of Goa, Daman and Diu.

S. R. Arya, Secretary (Revenue).

Panaji, 7th January, 1975.

Notification

No. RD/LQN/297/74

Whereas it appears to the Appropriate Government (hereinafter referred to as «the Government») that the land specified in the schedule hereto (hereinafter referred to as the «said land») is likely to be needed for public purpose viz. Acquisition of land for locating Town Hall.

Therefore the Government is pleased to notify under sub-section (1) of Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the «said Act») that the said land is likely to be needed for the purpose specified above.

2. All persons interested in the said land are hereby warned not to obstruct or interfere with any surveyor or other persons employed upon the said land for the purpose of the said acquisition. Any contracts for the disposal of the said land by sale, lease, mortgage, assignment, exchange or otherwise or any outlay commenced or improvements made thereon without the sanction of the Collector appointed in paragraph 4 below, after the date of the publication of this Notification, will under clause (seventh) of Section 24 of the

said Act, be disregarded by him while assessing compensation for such parts of the said land as may be finally acquired.

3. If the Government is satisfied that the said land is needed for the aforesaid purpose, a declaration to that effect under section 6 of the said Act will be published in the Official Gazette, in due course. If the acquisition is abandoned wholly or in part, the fact will be notified.

4. The Government is further pleased to appoint under clause (c) of Section 3 of the said Act the Collector of Daman to perform the functions of a Collector under the said Act in respect of the said land.

5. The Government is also pleased to authorise under sub-section (2) of Section 4 of the said Act, the following officers, to do the acts, specified therein in respect of the said land:

1. The Collector of Daman.

2. The Executive Engineer, P. W. D. Daman.

6. A rough plan of the said land is available for inspection in the office of the Collector, Daman for a period of 30 days from the date of publication of this Notification in the Official Gazette.

SCHEDULE

(Description of the said land)

Sr. No.	Taluka	Village	Plot No.	Survey No.	Names of the persons believed to be interested	Approximate area in sq. mts.
1	2	3	4	5	6	7
1.	Daman	Kathiria, Nani Daman	432	—	Jamshedji Sorabji Luth Kathiria, Nani Daman.	5,948
Total						5,948

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

S. R. Arya, Secretary (Revenue).

Panaji, 7th January, 1975.

Office of the Collector of Goa

Order

No. RB/RVN/28/74/1135

Sub: Government land Ambeachem Vaingona situated at Ustem-Satari, granted to Shri Rama Modu Gauncar of Ustem under Alvara no. 258 dt. 5-6-1928.

Read: Governments letter No. RD/LND/168/68 dt. 28-3-1969.

The reversion order no. LS/Reversion/9 dt. 1st March 1967 published in the Government Gazette no. 7, II Series dt. 18-5-1967 is hereby cancelled.

R. Narayanaswami, Collector of Goa.

Panaji, 20th December, 1974.

Order

No. RB/RVN/35/74/1317

Sub: Government land known as Margacuchichem Mola situated at Bandol Sanguem granted to Baboni Ezzo Nalique of Carmonem under Alvara No. 1181 dated 29-10-1941.

Read: Government's letter no. RD/LND/168/68 dt. 28-3-69.

The reversion order no. LS/Reversion/61 dt. 30-12-1967 published in the Government Gazette no. 42, II Series dt. 18-1-1968 is hereby cancelled.

R. Narayanaswami, Collector of Goa.

Panaji 20th December, 1974.

Public Health Department

Order

No. PHD/33(1)/74-PFA-I

In exercise of the powers conferred by section 20 of the Prevention of Food Adulteration Act, 1954 (XXXVII of 1954) the Lieutenant Governor of Goa, Daman and Diu hereby authorizes Dr. D. Costa Frias, Drug Controller of Goa, Daman and Diu, to institute and to give his written consent for instituting prosecutions for offences under the Act in all the specified local areas in the Union Territory of Goa, Daman and Diu.

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

P. Noronha, Under Secretary (Health).

Panaji, 2nd January, 1975.

Finance Department (Revenue)

Notification

No. Fin(Rev)/2-41/part/9/3448/74

In exercise of the powers conferred by sub-section (3) of Section 5 of the Goa, Daman and Diu Entertainment Tax Act, 1964, Government is pleased to exempt from the payment of Entertainment Tax the tickets issued for the marathi drama «BEBANDSHAHI» organised by Sandhya Theatres,

Poona proposed to be staged in Goa at the places, on the dates and time mentioned below:—

Sr. No.	Place	Date	Time
1	Panaji	17-1-75	10.30 p. m.
2	Margao	18-1-75	10.30 p. m.
3	Mapusa	19-1-75	10.30 p. m.
4	Vasco-da-Gama	20-1-75	10.30 p. m.
5	Bicholim	21-1-75	10.30 p. m.
6	Ponda	22-1-75	10.30 p. m.
7	Sanvordem Curcho-rem	23-1-75	10.30 p. m.

2. The exemption is subject to the condition that the entire proceeds accrued from the drama without deduction of expenses are credited to the funds of Sandhya Theatres, Poona and are utilised for the development of marathi drama art only.

3. Shri Pandurang Ghangrekar, Sandhya Theatres, Poona should maintain the accounts and submit the same to the Commissioner of Entertainment Tax, Panaji, as soon as the programme is over.

4. All the tickets proposed to be sold for this drama should bear the seal of the prescribed officer or of his office.

By order and in the name of the Administrator of Goa, Daman and Diu.

S. S. Sukthankar, Under Secretary (Finance).

Panaji, 23rd December, 1974.

Notification

No. Fin(Rev)/2-41/Part/9/3505/74

In exercise of the powers conferred by sub-section (3) of Section 5 of the Goa, Daman and Diu Entertainment Tax Act 1964, Government is pleased to exempt from the payment of Entertainment Tax the tickets issued for the konkani drama «KAKUT» proposed to be staged at Siolim on 29-12-1974 at 10.30 p. m. organised by Foot-ball Sports Club, Siolim.

2. The exemption is subject to the condition that the entire proceeds accrued from the drama without deduction of expenses are credited to the funds of Foot-ball Sports Club, Siolim and are utilized for its activities only.

3. Shri Vithal Pangam, Foot-ball Sports Club Siolim should maintain the accounts and submit the same to the Commissioner of Entertainment Tax, Panaji, as and when the same are required by her.

4. All the tickets proposed to be sold for this drama should bear the seal of the prescribed officer or of his office.

By order and in the name of the Administrator of Goa, Daman and Diu.

S. S. Sukthankar, Under Secretary (Finance).

Panaji, 26th December, 1974.

Notification

No. Fin(Rev)/2-41/part/9/3511/74

In exercise of the powers conferred by sub-section (3) of Section 5 of the Goa, Daman and Diu Entertainment Tax Act, 1964, Government is pleased to exempt from the payment of Entertainment Tax the tickets issued for the marathi drama «Sangharsh» organised by Chandralekha, Bombay proposed to be staged in Goa at places, on the dates and time mentioned below:

Sr. No.	Place	Date	Time
1.	Panaji	2-1-75	10.30 p. m.
2.	Ponda	3-1-75	10.30 p. m.
3.	Margao	4-1-75	10.30 p. m.
4.	Mapusa	5-1-75	10.30 p. m.
5.	Margao	5-1-75	10.30 a. m.
6.	Vasco-da-Gama	6-1-75	10.30 p. m.
7.	Bicholim	7-1-75	10.30 p. m.
8.	Panaji	8-1-75	10.30 p. m.

2. The exemption is subject to the condition that the entire proceeds accrued from the drama without deduction of expenses are credited to the funds of Chandralekha, Bombay

and are utilised for the development of marathi dramas and cultural activities only.

3. Shri Chandrakant Vithal Govenkar, Bicholim-Goa should maintain the accounts and submit the same to the Commissioner of Entertainment Tax, Panaji, as soon as the programme is over.

4. All the tickets proposed to be sold for this drama should bear the seal of the prescribed officer or of his office.

By order and in the name of the Administrator of Goa, Daman and Diu.

S. S. Sukthankar, Under Secretary (Finance).

Panaji, 28th December, 1974.

Notification

No. Fin(Rev)/2-41/part/9/3544/74

In exercise of the powers conferred by sub-section (3) of Section 5 of the Goa, Daman and Diu Entertainment Tax Act, 1964, Government is pleased to exempt from the payment of Entertainment Tax the tickets issued for the marathi drama «Vallabharurchi Dantkatha» proposed to be staged at Vasco-da-Gama on 28-12-1974 at 10.00 p.m. organised by the Amateur Dramatic Association, Vasco-da-Gama.

2. The exemption is subject to the condition that the entire proceeds accrued from the drama without deduction of expenses are credited to the funds of Amateur Dramatic Association, Vasco-da-Gama and are utilised for the development of dramatic art only.

3. The President, Amateur Dramatic Association, Vasco-da-Gama should maintain the accounts and submit the same to the Commissioner of Entertainment Tax, Panaji, as soon as the programme is over.

4. All the tickets proposed to be sold for this drama should bear the seal of the prescribed officer or of his office.

By order and in the name of the Administrator of Goa, Daman and Diu.

S. S. Sukthankar, Under Secretary (Finance).

Panaji, 28th December, 1974.

Notification

No. Fin(Rev)/2-41/part/9/3546/74

In exercise of the powers conferred by sub-section (3) of Section 5 of the Goa, Daman and Diu Entertainment Tax Act, 1964, Government is pleased to exempt from the payment of Entertainment Tax the tickets issued for the marathi drama «Guru» proposed to be staged on 1st, 2nd and 4th January, 1975 at Panaji, Margao, Mapusa respectively organised by Navrang Stars, Panaji-Goa.

2. The exemption is subject to the condition that the net proceeds accrued from the drama are credited to the funds of Navrang Stars, Panaji and are utilised for its activity only.

3. The President, Navrang Stars, Panaji should maintain the accounts and submit the same to the Commissioner of Entertainment Tax, Panaji, as soon as the programme is over.

4. All the tickets proposed to be sold for the said shows should bear the seal of the prescribed officer or of his office.

By order and in the name of the Administrator of Goa, Daman and Diu.

S. S. Sukthankar, Under Secretary (Finance).

Panaji, 30th December, 1974.

Corrigendum

No. Fin(Rev)/2-41/Part/9/3504/74

Read: Government Notification No. Fin(Rev)/2-41/Part/9/74 dated 21-12-1974.

The places, dates and timings of the drama mentioned in the Government Notification No. Fin(Rev)/2-41/Part/9/74 dated 21-12-1974 in respect of the marathi drama «Soubhadra» organised by the Nandadip Kala Niketan, Bombay may be read as follows:

Sr. No.	Place	Date	Time
1.	Panaji	6-1-75	10.30 p.m.
2.	Mapusa	8-1-75	
3.	Ponda	7-1-75	
4.	Vasco-da-Gama	9-1-75	
5.	Bicholim	10-1-75	
6.	Margao	11-1-75	
7.	Sanvordem	12-1-75	

By order and in the name of the Administrator of Goa, Daman and Diu.

S. S. Sukthankar, Under Secretary (Finance).

Panaji, 26th December, 1974.

Corrigendum

No. Fin(Rev)/2-41/part/9/3505/74

Read: Government Notification No. Fin(Rev)/2-41/part/9/3461/74 dated 18-12-1974.

The place mentioned in Government Notification No. Fin(Rev)/2-41/part/9/3461/74 dated 18-12-1974 in respect of konkani drama «PATLAUDAR» shall be read as "at Fransaliam Hall, Bamon Vaddo, Siolim" instead of "Tarchi-Bhatt, Siolim".

By order and in the name of the Administrator of Goa, Daman and Diu.

S. S. Sukthankar, Under Secretary (Finance).

Panaji, 27th December, 1974.